

1 and added things. For example, I asked you to find the
2 name of the person from the F.B.I.
3 If I don't receive the transcript back from -
4 you, we will consider the transcript that I do have, the
5 transcript which you didn't mark up or make any changes to,
6 as correct, and we'll use it as an original as if I
7 received the original from you.
8 Do you agree and stipulate to what I've just
9 said?
10 A Yes.
11 Q Then we're finished.
12 (Discussion held off the record.)
13 Q BY MR. SEIDEL: We had a discussion in which
14 we agreed that rather than have you write on the
15 transcript, a correction sheet will be provided to you in
16 the back of the transcript, and you will indicate the
17 changes on that.
18 A Okay.
19 Q Do you agree to that?
20 A Yes.
21 (Deposition proceeding
22 concluded at 5:20 p.m.)
23
24
25

1 STATE OF CALIFORNIA } ss.
2 COUNTY OF LOS ANGELES }

3
4 I, CARRIE EVIN CRAMIN, CSR No. 7082, within and for
5 the County of Los Angeles, State of California do hereby
6 certify:

7 That, prior to being examined, KEVIN HESSMAN,
8 the witness named in the foregoing deposition, was by me
9 duly sworn to tell the truth, the whole truth and nothing
10 but the truth:

11 That the said deposition was taken before me at the
12 time and place therein set forth, and was taken down by me
13 in shorthand and thereafter transcribed into typewriting
14 under my direction and supervision; that the said
15 deposition is a true and correct record of the testimony
16 given by the witness:

17 I FURTHER CERTIFY that I am neither counsel for nor
18 in any way related to any party to said action, nor in any
19 way interested in the outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this ____ day of August, 1997.

22
23 CARRIE EVIN CRAMIN
24 CERTIFIED SHORTHAND REPORTER
25

1
2
3 * * *
4
5
6
7 I, KEVIN: HESSMAN, do hereby declare under
8 penalty of perjury that I have read or had read to
9 me the foregoing deposition and it is a true record
10 of the testimony given by me.
11 Executed this ____ day of ____, 199__.
12 at ____, California.
13
14
15
16 KEVIN HESSMAN
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36-23
3

CONDENSED TRANSCRIPT & WORD INDEX

\$	administration (1) 9:18	attorney (3) 46:11, 20 51:8	58:9 64:13
\$159 (2) 21:1,8	admit (1) 88:3	august (4) 1:18 2:20 5:1 91:21	buddy (1) 26:1
*	admitted (1) 70:8	authorized (1) 65:21	build (1) 13:15
* (6) 5:3,3,3 90:3,3,3	admitting (1) 19:5	automatically (1) 42:21	building (2) 23:20 62:17
1	admonitions (1) 6:6	autonomous (1) 14:12	business (32) 1:8,9,10 2:8,9,10
1 (6) 1:11 2:11 4:20 21:18,19,24	adversarial (1) 75:4	available (3) 42:20,22 45:19	15:11,18 16:13,15,16,20 25:25
10 (3) 21:18,18,24	advertising (2) 1:11 2:11	away (2) 74:4 77:5	34:13,14 37:3,6,16,18,20 39:12
15 (4) 1:18 2:20 5:1 6:23	affected (1) 8:13	B	42:8 43:23 53:19 57:11 68:10
18075 (2) 2:19 3:5	afternoon (2) 60:9 80:13		73:24 74:20 75:5 77:12,16 88:1
1977 (1) 10:3	afterwards (1) 5:24	b.f.i (2) 65:5,19	buy (2) 16:22 61:5
1980 (1) 10:1	agency (3) 30:18,19 31:25	b.f.i.'s (1) 65:22	C
1986 (1) 26:8	agent (2) 34:11,25	back (29) 9:4,23 12:1 16:15 17:22,25 21:2,7,9,20 28:16 33:25	c-a-b-r-i-l-l-o (1) 39:16
1990 (2) 12:21 41:22	ago (1) 22:7	44:13 49:17 54:24 57:17 59:15	cabrillo (2) 39:16 62:17
1992 (1) 41:1	agree (2) 89:8,19	60:4,17 72:13 82:12 85:12,16	california (12) 1:1,19 2:1,19,22
1993 (2) 15:23 25:10	agreed (5) 37:10 40:7 59:10,20 89:14	86:13,14,15 88:21 89:3,16	3:6,10 5:1 32:14 39:17 91:1,5
1994 (1) 48:9	agreement (1) 88:16	bad (2) 19:8 27:24	call (16) 20:20 28:22 30:4 31:12
1997 (4) 1:18 2:20 5:1 91:21	alarm (3) 10:18,18,23	bail (1) 61:18	18 33:19 35:9 49:13 50:16 82:6,8,12,15,20 83:3,4
2	alarms (2) 10:25 11:2	base (1) 80:22	called (12) 5:6 26:1 30:4,17 31:34:1 47:25 49:9,14 78:4,6 82:11
20 (1) 6:23	alcohol (1) 8:9	based (2) 6:18 65:24	calling (2) 49:2,4
213 (1) 2:19	allegations (1) 60:23	basic (1) 9:14	calls (4) 49:22 61:14 82:13 87:5
24 (1) 8:10	almost (1) 71:13	basically (5) 10:15,17 11:18 17:10 68:22	came (11) 13:4 21:8 25:23 28:3
2438 (1) 3:9	already (14) 20:22,25 36:24 40:9 43:17,21,22 44:4 48:10,12,12,14 49:3 50:3	become (2) 26:15,17	44:19 46:19 58:19 62:2 64:5
3	although (6) 27:12 31:9 35:22 49:1 76:10 85:11	began (3) 25:18,21 41:22	80:14,22
30 (1) 88:20	amateur (6) 38:7,14,17,19,20 69:8	begin (2) 12:19 54:19	cancelled (1) 66:14
3481 (1) 39:16	amount (6) 14:2,17,20 21:24 45:21,23	begun (1) 20:25	candor (2) 36:2 71:14
35 (1) 4:20	angeles (8) 1:2 2:2,21 38:15 39:17 49:16 91:2,5	behalf (2) 2:18 5:6	cannot (1) 8:14
36 (2) 4:11,12	angriest (1) 21:18	behavior (1) 21:22	canyon (2) 73:18,19
3:00 (2) 2:18 5:2	angry (4) 21:11,19 22:1 45:7	bel-air (4) 10:11,21,22 45:18	capable (1) 58:24
4	animosity (1) 28:1	belief (1) 41:18	car (1) 75:14
45 (1) 23:8	annedore (4) 51:11,16 87:12,20	believe (94) 5:17 8:11,13 14:14 16:7,12 17:13,15 18:24 19:1,3,11 20:4,11,25 23:15,21 25:2,2,17 26:1 27:20,21 28:24 29:17 30:6 31:18 32:1,15 33:2,22,25 34:6,13 35:6,12,13,17 37:8,15 39:3,6 40:2,25 41:10 42:2,9,9,18 43:5,7 44:19 45:19 46:8,8,20,24 48:1,4,11,12 49:5,15,16 50:8 51:3,3,13 52:7 53:1 54:13 56:11,14 57:11 58:14 59:6,9 60:8,11 61:4,8,14 62:9 65:19 66:8 67:20 69:17 70:18 75:13 78:14 79:19,19 86:4,16	card (4) 28:23 34:13,14,19
5	another (8) 18:18 30:18 37:1 46:9 52:24 58:5 71:20 72:7	believed (9) 24:25 33:10 37:1 41:25 43:11,24 44:17 54:14 58:21	cards (1) 34:16
5 (1) 4:5	answer (6) 7:6,22 12:1 13:18 51:21 71:15	benefit (2) 42:14 44:11	care (6) 11:3,5 59:23 61:11 67:7,8
5:20 (1) 89:22	answers (1) 8:3	benefited (1) 19:22	cared (1) 59:24
6	anybody (8) 25:10 42:8 44:20 55:9 56:21 57:1 78:14 81:11	best (9) 1:11 2:11 6:19 7:4 8:2,14,17 42:18 45:22	career (1) 9:19
6 (1) 21:24	anyway (2) 6:6 40:7	between (6) 7:10,19 28:1 58:10 79:6 85:2	carrie (2) 2:20 91:4
7	apart (1) 66:10	beverly (1) 37:13	carries (1) 11:22
7 (1) 21:25	apartment (3) 80:14 81:3,25	big (3) 21:23 32:13 33:9	case (11) 5:16,19,24 65:2,4,9,12 15 83:7,7,23
7082 (2) 2:21 91:4	appealing (1) 79:1	bit (4) 13:3 16:8,16,19	casual (3) 46:25 54:20 79:24
8	appeals (2) 77:25 78:25	blank (20) 34:17,24 61:7,20,23 62:5,13,23 63:4,6,9 64:3,9,18,25 66:19,22 67:3,11 73:2	cause (7) 16:5,10 17:6,9 18:1,5 7
87 (1) 26:8	appear (3) 20:8,14 28:25	blow (1) 75:13	causes (1) 24:8
9	appearances (1) 3:1	board (1) 20:17	caution (1) 6:17
90066 (1) 39:17	application (2) 36:19 64:16	boasting (2) 71:13 72:1	cb (4) 15:11 16:18 32:16 33:21
90405 (1) 3:10	applied (3) 45:15,17 53:12	bonus (1) 44:8	cbs (2) 32:23 67:25
91316 (1) 3:6	apply (8) 37:2 39:24 40:4 61:4,5,6,19 62:9	book (4) 53:17 56:3,6,10	ccs (2) 1:10 2:10
92 (2) 41:4,5	applying (2) 63:12 64:23	books (2) 56:12 69:7	cell (1) 33:8
92/93 (1) 38:22	approve (1) 14:20	both (6) 28:11 52:10 53:2 55:25,25 78:6	cellphone (1) 34:2
93 (1) 12:22	approximately (7) 15:23 25:9 41:24 47:9 48:9 52:19 68:23	blow (1) 75:13	cellular (2) 32:13 42:19
94 (3) 20:10 47:9,12	april (1) 41:5	board (1) 20:17	certain (7) 11:22 12:10 14:1,2,17,20 33:3
A	area (3) 31:8 32:13 49:16	boasting (2) 71:13 72:1	certified (1) 91:24
a.a (3) 9:10,13 10:6	arguing (1) 18:11	bonus (1) 44:8	certify (2) 91:6,17
able (1) 63:24	around (6) 55:2 58:20 65:8 68:19 72:5 79:20	branch (2) 10:16 11:6	changed (3) 16:4 26:1 72:7
aboard (1) 25:23	arrange (2) 47:21,25	brand-new (1) 37:2	changes (6) 6:16,19 88:21,25 89:5,17
abusive (2) 24:15,21	arranged (1) 48:14	break (2) 15:8 72:12	changing (5) 62:10 71:6,20,23 72:4
accurate (2) 77:11 85:9	arts (1) 9:14	brief (4) 11:25 28:10,15 81:24	channel (1) 61:17
accurately (1) 6:10	ascertain (1) 12:10	briefly (2) 37:13 80:21	characterize (7) 53:24 55:16,168:12 74:17 75:2 76:1
accusations (1) 24:18	assistance (1) 38:24	bring (2) 77:24 78:25	charge (1) 69:24
acknowledge (1) 22:4	assume (9) 7:24 13:15 49:22 50:2 56:8,24 64:17 67:15 86:19	bringing (1) 56:20	charges (2) 18:13 24:7
across (1) 11:20	assumes (1) 79:14	brinkley (1) 57:23	check (2) 14:7 84:9
act (1) 37:17	attached (1) 36:9	brought (6) 18:10 56:6,10,22	christine (1) 57:23
action (4) 81:7,9,11 91:18	attack (1) 6:18		christmas (2) 28:8,22
actions (1) 28:19	attained (1) 9:9		christy (1) 57:23
actual (2) 56:16,17	attempt (3) 14:4 34:21 75:11		cienea (1) 23:21
actually (15) 11:7,14 27:17 30:10,17 32:1 33:25 37:12 45:12,14,16 67:21 70:17 71:23 72:2	attempted (1) 16:24		circumstances (1) 66:5
add (1) 73:10	attention (2) 83:24 84:1		city (3) 9:10,11,24
added (1) 89:1	attitude (6) 18:7,9 73:21 74:1 75:3 76:2		civil (4) 5:18,19,24 88:17
address (3) 39:18,19,21			claim (2) 21:3 25:3

CONDENSED TRANSCRIPT & WORD INDEX

<p>clear (9) 6:6,7 27:13 31:10 38:8 52:16 55:17 76:13,17 clients (1) 53:18 clinic (1) 25:24 close (1) 7:15 code (1) 88:17 coerce (1) 61:13 collect (2) 16:3 20:25 collected (1) 21:1 collecting (1) 45:7 college (3) 9:10,11,25 come (9) 11:20 41:17 54:21 61:5 62:19 76:24 80:19,21 84:6 comes (3) 49:16 56:11 63:23 coming (2) 60:4 88:13 commencing (1) 2:18 commenting (1) 74:24 comments (1) 6:17 commercial (9) 15:8,10 37:24 38:6 67:15,23 68:3,6,8 committed (1) 57:25 communications (6) 12:18,20,25 15:22 26:2 32:20 commute (3) 19:23 23:22 45:24 company (9) 5:17,22 12:14,17 26:9,13 61:15,15 70:25 compare (1) 7:13 competes (1) 75:5 complaint (1) 17:22 complete (1) 49:9 completely (2) 41:11 85:9 concerned (1) 53:9 concluded (1) 89:22 conference (1) 7:16 conflicts (1) 16:1 confusing (3) 80:19 82:10 87:18 conjecture (1) 74:8 connection (1) 57:12 consider (3) 68:13,16 89:4 contact (18) 25:10 28:11 29:10,25 30:1 31:3,11,23,25 34:7 44:20 45:4 46:6 47:3 82:3 86:22,25 87:19 contacted (20) 29:8,16 30:2,6,7,12,12,15,16 31:16 32:6 34:4 35:4,18 45:1 46:4 47:13,15,19 48:8 contest (1) 17:3 contested (6) 17:2 18:4 21:3,4 22:11 65:3 contesting (2) 21:21 65:20 contractors (1) 37:17 convenient (1) 48:6 conventional (2) 39:12 42:16 conversations (2) 82:16,18 convicted (1) 9:5 cooperate (1) 19:10 cooperating (1) 54:6 cooperative (1) 18:11 copy (5) 80:7 84:4 86:2,4,5 corporate (1) 14:18 corporation (1) 65:5 correct (25) 6:24 11:22 13:20 18:5 19:6 22:5,20 26:15 31:17 32:7 41:2,15 46:4 52:20 54:2 56:4 64:9 66:20 68:25 72:7 74:10 77:21 86:20 89:6 91:15 correction (3) 6:25 7:1 89:15 corrections (1) 85:11,12 86:12,13,17 correctly (1) 53:25 corresponded (2) 35:15 56:17 couldn't (20) 18:16 20:13,13 27:10 40:19 41:19 42:7 54:4,16 55:16 56:9 62:6 63:5,8 66:17 67:14,18 70:18,24 71:24 counsel (2) 3:1 91:17 counter (4) 32:20 62:2,18 64:5 county (5) 1:2 2:2,21 91:2,5 couple (1) 8:11 courses (1) 10:8 court (13) 1:1 2:1 6:8,10,13 7:25</p>	<p>8:5 34:23 36:5 51:21 52:1 88:16,17 courtesy (1) 83:10 cover (3) 83:18,18 84:7 covered (1) 85:25 cramin (2) 2:20 91:4 credibility (1) 6:18 crew (5) 61:14 69:25 70:13,20,21 criminal (2) 5:16,23 csr (2) 2:20 91:4 current (1) 23:13 customer (8) 61:5,16 62:24 63:12,22 65:3 67:20 72:4 customer's (1) 61:9 customers (22) 15:10 33:5 43:23 53:18 54:17 61:25 64:2,5,8,13,18,22 66:19 67:2 68:2,24 71:7,20 73:2 87:25 88:6,10</p>	<p>D damaged (1) 67:3 dan (3) 25:24,25 42:8 darn (1) 79:15 date (10) 6:15 27:6 29:2 41:3 48:10 77:25 78:25 80:5,6 85:1 dates (1) 36:1 day (3) 60:6 90:11 91:21 days (1) 88:20 dba (1) 37:6 de (2) 51:9 87:10 dealt (1) 42:10 death (1) 5:24 deceased (1) 87:22 decided (1) 31:12 decision (3) 11:12 12:11 13:8 decisions (4) 11:15 12:4,7 13:4 declare (1) 90:7 declared (1) 77:14 deducted (1) 23:16 deem (1) 6:16 defense (2) 24:2,4 definite (1) 60:20 definitely (8) 7:5 19:3 65:2 67:24 71:11 76:4,8 79:21 definition (4) 7:10 38:8 42:25 68:8 degree (5) 9:8,10,13 10:6 17:14 delivery (1) 61:15 denied (1) 25:7 deny (1) 17:18 department (4) 11:19,22 15:17 38:16 departments (1) 11:8 deponent (2) 3:7 22:3 deposition (14) 1:17 2:17 5:12,17,25 8:20,25 28:15 88:18 89:21 90:9 91:8,11,15 depositions (1) 6:1 describe (5) 27:23 42:17 54:4 73:21,25 described (2) 24:15 75:10 description (3) 15:6 18:23 42:18 desk (3) 7:12,16,18 desks (1) 7:13 detail (3) 13:3 28:4 30:5 details (4) 38:18 47:23 63:18 65:19 difference (2) 7:10,19 different (11) 32:23 33:4 42:22 45:16 64:14 68:1 69:18 70:3 71:7 72:5 78:15 dining (3) 55:2 79:20,21 direct (2) 83:23 84:1 direction (1) 91:14 discern (1) 56:16 discounts (1) 14:2 discovered (1) 37:1 discuss (6) 56:18 57:21 58:13 60:23 70:17 71:3 discussed (3) 44:3 47:24 53:7,</p>	<p>15 55:4 57:10,20 58:11 60:4,18 61:12,23 65:10 69:10,15 70:9,11 72:14,16 73:1,5,7,13,16 75:8,17 78:16,19 80:13 87:1,12 discussing (3) 49:24 55:23 71:12 discussion (8) 9:3 41:8 46:2 57:16,18 69:11 89:12,13 discussions (1) 81:17 disputes (1) 65:14 disrespect (2) 17:11 18:8 disrespectful (2) 24:13,14 distance-wise (1) 66:7 distinguish (1) 78:18 distorted (1) 20:4 document (4) 28:20,22 84:5,11 documents (10) 8:19 40:14 56:3 83:6,9,14,22 84:6,17 85:13 dodger (1) 8:12 doing (23) 1:8,9,10 2:8,9,10 17:18 31:1 43:6,9 44:3,4 55:15,22 62:2 68:21 70:8,12 71:2,12,24,25 72:3 dollar (5) 14:2,17,20 21:24 45:12 down (18) 6:14 8:1,1,5,7 15:8 16:8,18 27:10 36:16 39:15 47:10 55:2,5 76:7 85:1 88:13 91:12 dozen (3) 40:20 62:14 69:24 draw (1) 6:18 drill (1) 78:20 drive (1) 70:16 driving (1) 75:14 dropping (1) 16:17 drugs (1) 8:9 due (5) 21:20 23:11,14 25:1 31:24 duly (2) 5:7 91:9 dummy (2) 54:14 58:2 dummy-load (2) 40:2 41:20 during (4) 55:11 81:6 86:23 87:1 duties (1) 88:17</p>	<p>E e.d.d (3) 17:4,5 20:2 e.f (1) 15:9 each (3) 26:22 39:4 66:4 earlier (4) 36:19 41:9 46:3 52:18 early (2) 60:9,9 earthquake (3) 20:10,12,13 east (2) 49:17 73:19 eating (2) 55:5 79:22 education (3) 9:8 10:7,8 effect (2) 6:22 28:21 effective (1) 16:11 effort (2) 36:2 71:15 eight (1) 39:4 either (11) 17:21 21:2 25:12 35:21 39:10,11 49:12 58:5 70:5 71:2 77:1 emphasis (1) 9:16 employ (3) 27:17 31:21 39:2 employed (2) 12:23 44:23 employee (9) 18:19 19:6,8,8 37:16,19 57:21 58:6,22 employees (3) 18:10 22:14 33:5 employer (3) 14:16 23:13 26:10 employing (1) 44:25 employment (7) 12:19 23:3 25:19,21 26:4,7 28:12 encino (4) 1:19 2:19 3:6 5:1 end (3) 11:9 16:21 61:9 end-user (3) 67:17,19,20 ended (1) 79:20 ends (2) 11:19 67:21 enforcement (1) 9:21 enough (1) 77:3 entail (1) 10:14 enter (1) 88:15 entire (3) 10:16 25:16 62:16</p>	<p>entitled (1) 7:9 entity (3) 25:11 71:7 88:6 envelope (1) 83:2 equipment (1) 15:9 especially (1) 16:21 essence (2) 44:20 54:9 essentially (2) 54:2 78:20 estimate (8) 7:11,12,16,20 27:29,3 52:15 62:12 estimates (1) 7:9 euphemism (1) 70:22 even (13) 8:4 19:21 21:14 24:15 28:11 33:5 61:11 64:1 66:15,17 72:22 81:4 87:18 evening (1) 60:4 events (1) 26:23 eventually (1) 63:13 everybody (2) 17:25 73:10 everyone (3) 48:7 58:23 59:20 everything (5) 6:14 8:1 10:16 29:14 55:4 evidence (2) 76:14 77:3 evin (2) 2:20 91:4 exact (3) 24:11 27:18 50:9 exactly (15) 12:8 14:1 29:23 40:19 41:19 43:8,8 45:11,20,23 58:9 62:7 66:15 67:14 76:10 examination (2) 4:4 5:10 examine (1) 8:19 examined (2) 5:7 91:7 example (2) 84:2 89:1 except (2) 42:8 80:4 exchanged (1) 82:13 executed (1) 90:11 exhibit (2) 37:5 39:11 exhibits (3) 36:5,7 53:16 existed (3) 40:9 43:22 71:1 existence (2) 36:24 43:18 existing (1) 64:15 expected (2) 21:22 22:8 expert (1) 68:14 explain (1) 18:16 express (3) 24:25 58:15 79:7</p>	<p>F f.b.i (13) 30:20 31:3,12,17,23 34:4,9,25 35:4,8,11,13 89:2 f.c.c (57) 28:17,18 29:5,7,7,10,22,24,25,25 30:6,15,16,17 31:6,16,19 32:1,6 33:20 34:6 35:7,11,20,24 36:11,18 45:1 46:7,10 47:14 56:5,13 62:9 63:15,17 65:21,25 74:3,7,9,14,14 77:2 79:2 80:7,12 81:10 82:1,3,19,20,22 83:1 84:16,18,21 f.c.c.'s (1) 83:23 facilities (1) 65:23 fact (8) 6:3 19:21 21:1 31:24 37:14 54:15 67:2 87:21 fair (2) 14:22 24:5 fairly (2) 6:3 14:12 familiar (3) 6:3 39:18 54:18 far (12) 7:2 13:6 14:14 16:21 38:8 59:18,24 68:2 72:23 80:1 85:10 86:1 father (5) 51:3,15 87:16,18,22 fault (1) 74:5 favor (1) 21:6 favorite (1) 74:2 feelings (3) 21:20 27:25 74:17 feet (1) 7:14 felony (1) 9:6 felt (2) 31:1 32:25 few (5) 28:10 31:20 37:15 45:1 79:6 field (3) 31:7 34:11 57:13 fighting (1) 65:9 filed (1) 25:3 fill (5) 40:14,16 63:20,23 68:24 filled (1) 64:2 final (1) 85:13 finally (2) 35:6 43:7</p>
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CONDENSED TRANSCRIPT & WORD INDEX

financial (i) 44:11 74:4
financially (i) 19:18
find (i) 19:14 34:19,20 54:12
58:18 64:1 73:20 86:3 89:1
fine (i) 45:25
finish (i) 8:3,3 9:24 18:25 22:25
38:4
finished (i) 89:11
firing (i) 16:5
firm (i) 37:13
first (i) 5:7 25:4 29:10 30:13,
16 31:19 33:19 40:8 45:8,15
47:3 52:13,18 53:7 55:24 60:7,
17 69:15 78:10,19,21 79:4 82:
20 84:5,11 85:2
firsthand (i) 32:19 42:7 50:7
73:8 85:24
five (i) 7:14
flags (i) 88:25
flew (i) 49:17
follows (i) 5:8
fond (i) 74:23 75:6
food (i) 87:17
foregoing (i) 90:9 91:8
forget (i) 9:5
form (i) 63:23,25
formal (i) 10:7
former (i) 57:21 58:6,21
forms (i) 15:18,19 36:19 40:
17,18,22 61:7,20,23 62:5,6,10,
13,20,23 63:4,7,9,19 64:3,9,18,
22 65:1,20 66:19,22 67:3,12,15
68:2 73:2 87:24
forth (i) 91:12
four (i) 12:15 73:1
frank (i) 51:9 87:10
fraud (i) 33:20 42:1
fraudulent (i) 44:20 50:6
fraudulently (i) 43:11
free (i) 69:23,25
freeway (i) 75:14
freight (i) 14:3
frequencies (i) 32:17 34:2 41:
20,25 42:16,20,22 43:12,19 56:
12 64:14 70:3 71:6,7,23 72:4,5
frequency (i) 40:3,4 41:11,15
42:24 61:13,16,17,19 66:2,6
67:22 69:14,23 70:1,15,16 71:
20 72:7
friday (i) 1:18 2:20 5:1
friendly (i) 26:15 28:6
friends (i) 26:17,19
front (i) 16:19 68:21
further (i) 39:15 88:12 91:17
future (i) 81:6

G

gain (i) 74:4
game (i) 8:12
gather (i) 76:14
gave (i) 5:17 8:21 13:17
gb (i) 39:11
general (i) 9:14 11:9 14:19 15:
6 24:10,12 25:14 73:22 77:8,9
generate (i) 11:7,23
generating (i) 10:15 11:10
gentleman (i) 46:10 51:7 52:
10,24 74:22
gerald (i) 51:4
gerard (i) 51:5,6 52:23 54:22
59:9,16,18 74:21 79:18 81:21
86:19
getting (i) 16:15 18:9 19:18 63:
17 83:12
gist (i) 78:24
give (i) 6:5 7:9 8:14,16 15:6 27:
7 29:3 62:12
given (i) 6:1,8 62:20 90:10 91:
16
gives (i) 66:2
giving (i) 60:25
goal (i) 6:19 42:15 77:18

goods (i) 27:21
got (i) 17:22 34:15 35:24 38:
14,25 43:1,5 45:9,16 78:7 86:
12
government (i) 30:18,19 31:25
government's (i) 74:5
graduate (i) 10:2
grapevine (i) 22:22 23:2-
great (i) 19:24
guard (i) 5:21 37:21 45:18
guess (i) 5:25 7:5,11,20 16:10
17:5 20:20 21:2 27:10 32:15
36:12 37:10,17 39:25 44:23 45:
8 50:17 52:3 54:16,22 57:9 60:
2 65:10 66:23,24 79:1 80:7 83:
3,4
guessed (i) 40:6
guesses (i) 57:24
guy (i) 61:18

H

half (i) 19:17 21:7 23:8 40:20
52:20 62:14
ham (i) 32:16,17 38:16 67:25
hand (i) 36:4
handle (i) 72:2 88:8
handled (i) 71:22
handling (i) 15:20
handwritten (i) 84:4
happen (i) 62:21 81:13
happened (i) 17:1 35:3 58:19
62:15 63:6 64:5 70:1 72:8 86:
18
happening (i) 83:11
happy (i) 21:12 75:19 79:11,15,
17
hard (i) 8:6 27:23
hardware (i) 15:15,16
harold (i) 46:16,18 48:4,13 50:
22,23 51:3,15,23 52:9,23 54:25
55:14,15,22 56:19 58:10 59:11,
13,15,17 69:17 74:25 75:2,10,
13 78:11 79:14 81:18,23 86:25
87:21
harold's (i) 56:10 87:15
hate (i) 59:2
hear (i) 41:19
heard (i) 22:22 23:2 30:10 35:6
44:2 47:17 49:7 68:18 70:17
71:25 87:9 88:3
hearing (i) 20:5,6,17,24 21:5
23:6,11,14,17 24:3 30:9 70:19
heavily (i) 58:2
held (i) 9:3 23:17,18 41:8 46:2
54:3 57:16,19,19 59:25 60:12
73:3 89:12
help (i) 37:3
hereby (i) 90:7 91:5
hereto (i) 36:9
hessman (i) 1:17 2:17 3:8 4:5
5:5,12 34:24 37:6,7 39:15 84:
13,15 90:7 91:7
hi (i) 84:9
high (i) 10:2,4,5,6 13:16
highest (i) 9:8
highlight (i) 83:19
highlighting (i) 84:2
highlights (i) 83:19
hills (i) 37:13
himself (i) 29:18 58:6 88:3
hold (i) 19:25
holder (i) 77:7,9,15
holding (i) 54:5
hollingsworth (i) 28:24 29:17
30:9,11,13 35:7,14,17 46:4 47:
3 48:8 49:8,19,20 51:6 52:6,24
54:1 55:23 56:7 58:13 59:21
72:19 76:6 79:7 80:4 81:2,25
82:4,6,16,19 83:22 84:12
hollingsworth's (i) 76:1
home (i) 34:16 39:21 51:14 52:
9 78:11

homicide (i) 60:20,20
honest (i) 74:6
honestly (i) 16:14
honesty (i) 73:12
hostile (i) 27:23 76:3
hotel (i) 82:13
hour (i) 23:8 45:13 52:4,19,19
hours (i) 8:10 39:4
house (i) 46:17 48:5 50:22 73:
17 81:24
however (i) 7:9
huh-huh (i) 8:6
hurt (i) 19:18 64:25

I

idea (i) 7:17 32:4 50:14 63:25
82:9
identification (i) 36:8
identified (i) 4:10
identify (i) 29:18 36:6
ill (i) 19:25
illegal (i) 32:14,25 33:2,10,17
illegally (i) 31:2
important (i) 6:5 45:20 83:24
improve (i) 70:3
improving (i) 70:14
inadvertently (i) 49:18
income (i) 23:13
incorporated (i) 86:13
independent (i) 33:16 37:11,17
69:2 71:5
indicate (i) 32:22 83:20 89:16
individual (i) 87:9
individually (i) 1:8 2:8
industry (i) 42:3
inform (i) 82:7
information (i) 4:18 35:1 88:20
infrequently (i) 64:6
infuriated (i) 21:16
initial (i) 32:11 64:23
initially (i) 31:16
instance (i) 43:22
instances (i) 70:9
instigated (i) 35:20
instruction (i) 39:4
instructions (i) 7:2
insurance (i) 19:2
intends (i) 28:18
interest (i) 60:1 88:7
interested (i) 72:23 91:19
interpret (i) 74:15
interruption (i) 11:25 80:10
intimidate (i) 61:12
intimidation (i) 69:11 72:14 73:
4
introductory (i) 55:8
inventorying (i) 10:17
investigating (i) 77:1
investigation (i) 33:16
investigator (i) 29:21,22,24
involved (i) 35:25 58:2 62:10
64:12,18 65:5,13 66:7 68:1 71:
8,18,21 75:4
ironically (i) 19:21
issue (i) 33:8 41:3
issues (i) 34:5 42:11 73:1 78:
23
items (i) 11:2,15,22 12:11 13:7,
19 15:2,5,13

J

james (i) 22:5 25:11 28:12 35:
14 48:24 74:1 75:3 76:2 77:12
83:7,23 84:17
january (i) 47:12
jensen (i) 25:13 26:3,10 27:14,
16 28:6,11 30:2,7,12,12 35:
19 49:6,12 51:2 52:22 59:6 81:
10
jensen's (i) 48:4 74:17
jerry (i) 57:4
jewelry (i) 37:22

jim (i) 12:18 15:24 17:2 21:3
14,14,20 22:4 25:4 29:5 31:1
36:18,24 37:3,8 39:24 41:11
42:4,12 44:14,23 45:5 50:6 56:
11 57:13 58:1,3,24 59:7 60:20
61:3,6,6,19 62:16,19 64:15,21
65:3,9,10,14,20 67:21 68:1 69:
18,25 70:7,9 71:2 74:20,23,24
75:10,16,19 77:2 79:1 88:3,6
jim's (i) 21:6 44:3 57:22 61:9
job (i) 10:12 14:4 19:14 20:23
27:1 45:9,10
joel (i) 3:4
johnson (i) 15:9
joked (i) 17:25,25
joking (i) 17:24
joy (i) 79:16
judge (i) 20:20
judgments (i) 80:7 83:3,4
july (i) 41:4
jumping (i) 79:16
justice (i) 9:18

K

kathleen (i) 34:11,12
kay (i) 12:18 18:4 19:1 20:1,8
22:5,19 24:6,7 25:11 28:12,19
29:5 31:1 35:14 41:25 42:5 43:
6 48:24 56:24 57:2,19 58:1,5,
21,24 60:23 63:3,9,22 64:8 66:
18 69:11 70:2,17,22 71:7 72:15
73:4,22 74:1,17 75:3,6,10,16
76:2,7 77:12 79:8 83:23 84:17
88:1,6
kay's (i) 24:17 25:5 27:17 31:
20 43:11 76:15,22 77:2 83:7
keep (i) 16:22 80:5
kept (i) 13:19 28:11 80:6
kevin (i) 1:17 2:17 3:8 4:5 5:5
84:9,12 90:7 91:7
kill (i) 75:20
kind (i) 9:17 13:15 14:16 15:8,
11 16:4,20 18:14,15 20:3 21:12
24:16 27:23 32:13 35:23 37:8,
18 43:18 46:20 48:11 56:12 61:
3,15 65:22,23 74:22 76:25 79:
17 80:15 82:8,25 83:17 87:16
kinds (i) 56:12 67:10
knowing (i) 49:15 59:3
knowledge (i) 32:18 64:24 65:
11,24 68:12 69:3,18,20 71:5,
10,16,19,21 72:6,9 73:8 74:9
85:24 88:1,5,9
knowledgeable (i) 68:16
known (i) 26:6 76:11

L

l.a.x (i) 23:20
la (i) 23:21
large (i) 23:20 83:2
last (i) 8:10,11 12:1 28:7,8 34:
12 52:2 57:4
lasted (i) 52:19
later (i) 6:15,23 8:7 14:23,24
37:1 47:1 60:9 61:7 75:23
law (i) 3:4 6:10 9:21 33:7
laying (i) 16:2
learn (i) 22:13 41:17 65:6
learned (i) 44:17
least (i) 4:24 52:8 68:17 85:5
leave (i) 15:22 27:19 34:23
leaving (i) 16:9 25:9 27:8
leeway (i) 11:18 13:9,12
left (i) 19:15 25:17 27:4,4,8,16
28:12 29:4,15 30:22 31:20 34:
17 37:14 47:8 82:11
legal (i) 32:14
legitimate (i) 43:21,22
legitimately (i) 43:17
length (i) 49:25 87:2
lengthy (i) 83:17
less (i) 45:10,13

CONDENSED TRANSCRIPT & WORD INDEX

letter (s) 35:11,16 84:2,3,7
letters (i) 87:7
letting (i) 45:8
leveled (i) 24:7
liberal (i) 9:14
library (i) 33:12
license (s) 4:11,12 36:20,22
 37:17,23,24 38:5,6,7,11,15,19,
 20,23 39:2,8,11,23 40:4 43:21,
 25 56:17 61:6,8,14 62:10 63:
 13,16,17,20,24 64:16,23 65:3,
 21,25 66:3,8,9 67:19,25 68:1,6,
 9 69:8 77:7,9,14 87:24
licenses (s) 8:21 30:25 31:4
 32:7 36:10 37:2 40:1,15 41:1,
 10 43:2,15 44:1,19 45:6 47:13,
 14 48:18,25 53:10,11,11,15,18,
 19 54:10,14 56:5,13,15 57:10,
 19 58:18 59:25 60:19,24,25 61:
 4,21 66:13 67:10,17,23 68:3,
 13,24,25 73:3,9 76:8,12,15,22
 77:5,5,8,15 82:20 85:24 87:24
 88:2
licensing (s) 33:23,24 34:1 42:
 11 48:25 50:6 58:3 65:14 67:7
 68:19 69:3 74:3,8,9 77:2 78:23
life (i) 75:11
likely (i) 67:18
limit (i) 43:19
limited (i) 12:8
line (s) 4:19 37:5 39:10 42:19
list (s) 56:11,12 83:13
listening (i) 71:2 74:25
listing (i) 53:18
little (s) 13:3 22:2 88:23,25
living (i) 51:12 54:21
long (s) 12:14 23:6,22 26:6 50:
 15 52:2,21 77:3
longer (i) 25:23 52:4
look (s) 7:13 37:4 41:3 58:18
looked (s) 33:12 46:21 54:6 56:
 3
looking (s) 16:15 21:13 53:20
 54:12,13 56:15 59:24 77:2
looks (i) 7:14 41:4
los (s) 1:2 2:2,21 38:15 39:17
 49:16 91:2,5
lose (i) 23:11,13
lot (i) 11:18 20:4 42:10 55:14
 57:13 59:19 72:17 73:13 75:4
 79:23 83:17
lots (i) 22:17 73:7
low (i) 12:10 13:22
lower (i) 14:3
lowest (i) 14:4

M

m-a-c (i) 5:21
macguard (s) 5:21 26:12 37:14
mad (i) 76:5
made (i) 14:8 25:3 55:9 58:8
 59:7,17 75:11 76:11,13,17 79:
 14 81:6 83:21 85:10,11 86:12
 88:25
magro (i) 25:24 42:8
magro's (i) 25:25
mail (i) 36:11 43:8,10 80:8 82:
 22,25 84:18
mailed (i) 47:13
mailing (i) 83:13
maintained (i) 57:13
majored (i) 9:17
manager (s) 14:19,20 25:14,15
 65:22
manipulates (i) 74:3,7
many (s) 27:7 40:20 42:15,23
 52:15 62:12 64:4 85:4
mark (s) 36:5 57:5,9,9 84:2 89:5
marked (i) 36:8
market (i) 16:18
marzo (i) 51:9 87:10
matter (i) 22:11

mean (s) 17:24 22:8 48:17 54:
 20 64:4 66:6 69:12 71:17 73:13
meaning (i) 13:12 28:20
meant (i) 8:8 59:17
measure (i) 16:11
meet (s) 48:2,6 80:3
meeting (s) 47:21,25 48:4,10,
 13,16,19 49:23 50:1,4,10,13,
 20,24 51:1 52:2,7,11,12,19 53:
 4,8 54:3,5,19 55:3,11,13,24 56:
 7 58:21 60:7,17 61:23 69:15,16
 72:13 73:2,5,22 74:18 75:12,
 21,25 76:13,14,20 77:19,21,23
 78:1,2,3,10,17,19,19,21,24 79:
 3,5,19,23 81:24 82:1,7 85:3 87:
 3
meetings (i) 46:16 49:17 52:8,
 10,25 53:2 80:12,17,24 81:7,
 14,23 86:23 87:1
mention (s) 14:15 27:14 34:1
 48:23 54:21 84:22
mentioned (i) 33:22,22 49:5,12
 51:7 63:12 73:14
mentioning (i) 70:19
merged (i) 25:24,25
message (i) 82:12
met (s) 26:10 46:15 50:14,21,23
 51:13 52:5 54:21 87:9
might (i) 7:15 31:1,14 34:12
 53:2,2 54:25 58:24 73:14 79:8
 80:19 87:18
mildly (i) 22:1,2
mile (i) 66:10
mind (i) 88:24
minute (i) 31:5 80:9
minutes (i) 6:23 23:8
miserable (i) 69:13
misrepresentations (i) 42:1
miss (i) 8:5
model (i) 19:6
modification (i) 34:7
modified (i) 32:23
modify (i) 32:16
modifying (i) 32:12 34:3
moment (s) 9:2 16:6 22:7 28:14
 37:4 72:14
money (s) 19:2 21:20 23:11
monica (i) 3:10 9:12,24 10:5,5
 39:5 73:18
month (i) 12:24
months (i) 27:8,11 30:22 31:20
 35:5,5 45:1 52:14,15 78:9 79:4,
 6
moral (i) 43:1
morning (i) 60:9
most (s) 37:16 55:12,16,22 61:
 11 64:22 67:6,18
mostly (i) 10:23 34:2 55:11 65:
 7
mother (s) 51:23 55:1 87:16
motorola (i) 15:9
mountain (i) 57:13
move (i) 72:5
moved (i) 62:17
moving (i) 71:6
much (s) 11:17 12:4 13:1,13,
 25 16:21 17:10 23:7 25:23 35:5
 43:3 48:13 49:2 52:4 53:9 60:
 14 61:18 73:9,15,23 77:8 79:11
 83:19
murder (s) 57:25 61:22 73:2
murdered (i) 5:23 57:22 58:6,
 22
must (i) 6:17 50:2,17

N

nail (i) 27:9
name (s) 17:23 25:25 30:10
 34:12,18,25 36:11 37:1,2,8,10
 39:23 40:10 43:20 45:6 46:13
 49:7,19 50:7,9 51:4 53:12,13
 57:4,5,22 58:18 61:9,9 62:11

63:14 66:13 67:9 70:25 73:6
 85:25 87:24 89:2 91:20
named (s) 87:10,20 91:8
names (s) 53:19 54:10,12,17,18
 73:3
narrow (i) 47:10
nation (i) 32:15
near (i) 23:20
necessary (i) 6:16 64:22
necessitated (i) 20:24
need (s) 36:20 37:23 38:5,8 42:
 10 77:23
needed (i) 14:15 15:17 40:10
 43:20
neither (i) 91:17
never (i) 7:17 22:19 28:4 33:12
 68:24 69:5,7 77:13,17 81:19
 84:3 87:19
new (s) 16:22 62:17 64:13 88:10
news (i) 33:9
next (i) 32:9
nice (i) 51:25
night (i) 8:12
nor (i) 91:17,18
normal (i) 64:16
notarized (i) 85:18 86:7,14
notes (i) 84:4
nothing (i) 8:22 27:9 36:15 44:
 10 47:11 64:6 91:9
notified (i) 28:17,20
notify (i) 33:19
november (s) 12:15,22,24 15:
 23 25:10 47:9 48:9 50:19
number (i) 79:4
numerous (i) 42:19,21 53:18
 72:3
nuys (s) 19:23 23:25 45:24

O

oak (i) 3:9
oath (i) 6:4,8
objection (i) 45:7
obtaining (i) 88:2
obtains (i) 65:24
obviously (i) 56:24 75:15
occasion (i) 26:24 74:13
occasionally (i) 26:23 61:25
occasions (i) 5:15 64:8 66:19
 68:23
occupy (i) 41:25
occupying (i) 55:12
occur (s) 50:13,15 60:6
occurred (i) 75:17,21,24
october/november (i) 12:23
odd (i) 69:24
offered (i) 39:5
office (s) 11:9 14:18,19 31:7 51:
 19 65:8,15 68:19
officers (i) 5:22
offices (i) 3:4
often (i) 62:22
okay (i) 6:21 14:22 16:6 32:3
 37:9 45:24 46:1 51:24 52:18
 56:2 75:7 89:18
older (i) 74:22
once (s) 19:9 35:12 48:7 55:2
 80:16
one (s) 5:22 8:1,2,7 20:20 24:
 23 25:13 31:7 40:3 42:20,24
 43:22 44:14 46:8,8 52:13,25
 53:1 54:25 55:12 57:15 60:7
 63:16 65:2,22 67:21 71:20 72:7
 75:12,23,24 79:20 85:5
one-page (i) 35:11
ones (i) 54:13 67:11
ongoing (i) 65:9
only (i) 8:1,5 25:13 38:14 46:8
 50:21 52:5 53:14 66:10,23 73:8
opening (i) 27:2
operate (i) 38:18 66:2
operation (i) 68:20
opinion (i) 58:23 59:1,3,22

opinions (i) 33:6 58:15
opportunity (i) 6:15
opposed (i) 49:19 68:11
optimism (i) 79:7
optimistic (i) 79:9
order (s) 11:7,8,8 14:8 38:16,1
orders (i) 10:15 11:10,20
original (i) 89:6,7
originally (i) 31:6 34:2 45:17
 61:8
ornery (i) 19:9
other (s) 6:1 7:13 10:6,7 11:8
 17:11 18:10 22:14 24:20,20,21
 25:8,11 26:22 30:19 31:1 32:8,
 9,10 33:5,15,20,20 41:14 44:3,
 5 47:7 48:16 51:7,13,14 52:10
 54:5,12,16 56:15 57:1,12 60:1,
 19,24 61:18 62:10 64:12 65:19
 66:1,4 68:8,18,23 69:8 71:3 73
 16 74:25 78:24 80:11,12,24 81
 6,14,17,23 82:1,4,6,15,19 84:1,
 16,18 85:13 86:23 87:1,19,23
 88:3
otherwise (i) 38:6
out (s) 10:18 18:16 19:23 23:2
 27:9 40:14,16 43:23 45:24,24
 47:11 49:17 54:12,13 55:12 56:
 11,13 58:19 62:18 63:20,20,23
 64:3,6 68:24 75:13 76:4,6 77:
 12,16 84:9
outcome (i) 91:19
outright (i) 74:24
outside (i) 26:22
over (i) 14:17,20 24:22 30:5
 36:25 45:7 53:22 55:3 62:16
 74:12 78:22
over-the-counter (i) 15:11
own (i) 20:8 31:12 38:25 57:11
 71:6 73:4 74:19
owned (i) 71:8
owns (i) 25:12

P

p.m (i) 2:18 5:2 89:22
packages (i) 84:16
page (s) 4:4,19 39:15 84:5,11
pages (i) 36:4 83:2 85:4 88:25
paid (i) 45:19
paper (i) 36:4
paperwork (i) 11:10
part (s) 16:19 24:4 64:15 68:19
 74:8
participants (i) 53:5 58:21 73:
 22 78:13
particular (i) 40:3 42:24 48:18
 70:1
particularly (i) 74:6
parties (i) 72:14
parts (i) 10:18 15:16 83:24
party (i) 91:18
past (i) 22:10
pat (i) 44:13
patrol (i) 5:22 10:11,21,22
pause (i) 28:15
pay (s) 19:3 21:6,9,20 45:10
penalty (i) 88:22 90:8
people (s) 16:9 19:10 22:9,18
 24:20,21 31:9 33:4,15 37:16
 41:14 42:4 44:3,5 51:14 53:6
 61:13 62:2,12,19 67:6,11 70:3
 71:3
people's (i) 60:24 73:3
perhaps (i) 18:21 19:5 27:1
 28:10 58:5 64:7 66:18 80:4 81:
 24 87:25
period (i) 26:21 28:10 50:18
perjury (i) 88:22 90:8
person (i) 20:14,15 24:6 44:24
 56:16 65:20 68:11 74:2,6 89:2
personal (i) 64:24 65:11 71:5,
 10,16,19,21 72:6,9 74:9 88:1,5,
 9

CONDENSED TRANSCRIPT & WORD INDEX

personally (i) 17:3 21:16 42:8
58:5 59:3 62:13
persons (i) 72:6
pertained (i) 85:23
petty (i) 21:13
phone (i) 20:14 24:6 33:8 50:
15 81:19 82:8,13,15,16,18 87:5
phrased (i) 24:11
pick (i) 32:12,23 34:3 40:23
46:18 48:13 49:3 50:23 51:3,
11,16 52:23,23 53:17 54:1,6,
12,22 55:14 56:7,8 58:10 59:9,
12,14,15,16,18 62:19 63:19 69:
17 72:17 74:21 75:10 79:14,18
81:10,18,21 86:19 87:1,12,20
pick's (i) 46:17 48:5 50:22 51:
23 52:9 55:1 73:17 75:2 78:11
81:24
picked (i) 62:21
picks (i) 81:15
pile (i) 34:16 62:20
pin (i) 85:1
pinpoint (i) 36:16
place (i) 11:7 23:3 45:8 50:20
52:12 80:21 88:23 91:12
places (i) 26:24
plaintiff (i) 2:18 3:3 5:6
plaintiff's (i) 4:10 36:7
planning (i) 9:20
plans (i) 81:6
pleasant (i) 18:21
please (i) 34:23 36:6 74:17
plus (i) 33:8
point (i) 19:25 36:22 56:13 83:
20 88:12,15
pointing (i) 54:13
police (i) 38:16
policy (i) 22:12
polite (i) 18:21
poor (i) 18:7
portable (i) 25:24
position (i) 45:15,16,19
positive (i) 55:7 80:18 86:18
possible (i) 15:7 60:19 70:2,4
possibly (i) 75:19
post (i) 37:21
practice (i) 42:3 64:21
practices (i) 69:11 73:4 77:2
preclude (i) 41:14
prepare (i) 8:24 88:18
present (i) 14:16
pretty (i) 22:15 13:17 17:10 34:
20 46:25 48:13 49:2 53:9,12
54:20 56:1 60:14 73:23 74:19
76:5,13,17 79:11,15 83:19 86:
18
price (i) 11:23 14:3,5
prior (i) 8:19 9:22 12:16 26:3,6,
10 27:8 31:16 39:19 50:23 91:7
private (i) 5:22 10:23 68:11
probability (i) 58:16
probably (i) 13:14 16:14 19:
21 26:8 29:4,13,13 30:3,22 33:
3 38:21 47:8 48:25 49:11 55:
15,22 58:24 59:10,19 60:3,8
65:7 67:8 69:17 70:7 72:17,23
73:20 74:19 75:16 76:10 18 77:
4 78:6 79:17 83:18 84:14 85:2
problem (i) 24:23 88:14
procedure (i) 88:17
proceeding (i) 89:21
proceedings (i) 84:17
process (i) 39:1 63:16 69:3 77:
25
processing (i) 11:10
produced (i) 56:6
producing (i) 53:10
protect (i) 58:6
provide (i) 34:25
provided (i) 89:15
pull (i) 61:16
purchase (i) 10:15 11:7,10,13,
14 12:11 13:13,23,25 14:8 15:

2,18
purchased (i) 11:6 12:5,7 13:5
15:13
purchases (i) 13:4 15:1
purchasing (i) 10:13 11:3,5,16
13:2 45:16,18 68:21
purpose (i) 38:10 41:10 43:25
76:14,19
put (i) 37:9 40:10 42:23 43:20
69:23,25 70:2 72:4 77:12,15
88:25
putting (i) 70:15

Q

qualms (i) 43:1
quantity (i) 13:6,8 14:3
question (i) 7:6,7,8,22,23,24
13:17 18:25 22:25 32:9 38:2,4
59:11 74:21
questions (i) 8:4 51:22 88:12
quite (i) 16:8,16,19,21 35:24
47:16 52:13

R

radio (i) 4:11,12 15:9,10,13
32:6,17 36:10 37:23,24 38:5,6,
7,11,14,16,18,19,20 54:17 56:
12 63:15,17,20 67:7,16 68:13
69:8,14 71:23
radios (i) 15:17 16:22 32:16,
16 37:20 38:17 61:6 62:19,21
64:14 66:2,3,4,11 67:8,21,22,
25 68:10 69:22,25 71:23 72:2
ran (i) 13:1 88:1
rate (i) 21:19,24
rather (i) 17:9 37:15 54:7 89:14
re-frequencing (i) 69:22
read (i) 12:1,2 40:24 67:14 69:
7 83:14,16,18 85:7 88:23 90:8,
8
real (i) 16:19 19:8 27:24 59:22
66:1 69:2 78:1,24 80:2
realize (i) 6:23 48:9 81:5
realized (i) 43:24
really (i) 6:2 8:7 14:25 18:1 20:
3,4 23:7 24:23 27:5,10,10,12,
18,22 28:4 31:5,10,24 35:22,25
36:15 37:18 43:3 44:16 47:7,
10,24 49:1 52:16 54:4,11,16
55:1,7,12,17,25 56:23 57:11
62:24 64:6 65:8,18 66:11,17
67:6 68:4,6,9,18,19 70:18,22
71:1 73:8,9,10,14 74:5,9,20,23,
24 75:24 77:13,17 78:18,23 79:
2 80:18,20,21 84:11,14 85:1
86:17 87:14
reason (i) 8:16 15:25 17:8 19:
11 24:21 27:18 36:20 38:14 40:
10 43:20 65:19 70:2 78:2 80:3,
20
reasons (i) 17:12,13,15 25:8
36:25 71:10,11
recall (i) 6:2 10:19 14:21,22,
23,24,25 15:2,20 17:11 19:16
20:9 23:7 24:2,7,8 25:7 27:4,12
29:1,5,14,22,23 30:8,14,15,21,
24 32:3 33:7 34:8,13 35:10,23
36:3,13,17 39:1 40:18,20 44:14
46:9,13,15,20,21 47:2,16,18,
22,23 48:3,15 49:1,24 50:20
52:8 53:7 54:11 55:6 56:19,21
57:3,18,20 58:9 59:19 60:3,12,
18,22 62:1,1,3,15,22,23,25 63:
3 64:2 65:17 69:21 70:7,19,25
71:11 72:3,21,24 73:7,10,15,17
74:22,23 75:21,25 76:25 77:4,
24 78:1,8,14,16,24 80:2 81:1,
12 82:17 83:19 84:11,25 85:4,
22 87:3,15,16
receive (i) 82:25 83:6 84:18,20
89:3
received (i) 10:7 36:11,14,17

38:7 39:8 41:1 43:7,10,25 44:1
82:22 83:9 84:25 89:7
receiving (i) 80:7
recognize (i) 51:18
recognized (i) 53:20,23
recognizing (i) 54:16
recollect (i) 36:3
recollected (i) 54:10
recollection (i) 27:5 31:15 52:
16 55:17 57:8 61:2 84:23
recommended (i) 31:13
recommended (i) 32:2
record (i) 6:7,25 9:2,3,4 12:2
22:3 27:13 28:14,16 41:7,8 46:
1,2 49:18 57:15,16,17 80:9 89:
12 90:9 91:15
refer (i) 68:10 84:12
reference (i) 6:18
referred (i) 17:23 53:15
referring (i) 22:5 39:10 49:20
55:24
refers (i) 39:13
reflective (i) 83:7
refresh (i) 31:15 57:6
refreshed (i) 61:2 84:23
refreshments (i) 54:23
regarding (i) 34:4 35:14 47:14
57:19 82:20 87:23
regular (i) 6:6
related (i) 11:2 91:18
relates (i) 9:19
relevant (i) 83:20
relieve (i) 88:16
relinquish (i) 65:21
remained (i) 27:21
remember (i) 14:14,19 17:23
20:11,12 24:11 27:18 30:3,9
31:11 34:11 35:19 37:9 40:17
43:18 46:14 47:7 51:7 52:9 53:
10,11,17,19 55:1 57:4,11 62:18
65:2,8,9,10,14,18 71:1 73:16
75:8,11,16,17 76:10 78:4 79:
16,22 80:6,14,15 82:8 84:14
85:10 86:1,17 87:15
repair (i) 15:17 32:20,21,22
repeater (i) 57:14 66:11,16
repeaters (i) 66:7
rephrase (i) 7:7 23:12 77:6
replacing (i) 16:10
report (i) 30:25 32:12
reporter (i) 6:9,13 7:25 8:5 34:
23 36:5 88:16 18 91:24
reprimanded (i) 24:24
reprogrammed (i) 64:14
reprogramming (i) 69:22
request (i) 85:20
requested (i) 4:18 35:1
require (i) 67:25
requirements (i) 9:15
requires (i) 6:9
residence (i) 81:24
residential (i) 10:24
respect (i) 31:3 32:6 35:9 42:6
53:14 59:1,11 74:21 88:2
response (i) 10:23 24:5,17 25:
5
responses (i) 8:6
responsible (i) 10:17
result (i) 21:5
review (i) 6:15 34:18
revoke (i) 76:8,12,15,22 77:5,8
revoked (i) 77:15
riley (i) 28:24,24 29:17 30:4,8,
10 35:6,12,13,17,21 46:4,9,19
47:3 48:6 49:6,7,12,14,19,20
51:6 52:5,9 54:5,6 56:9 76:25
78:5,6,6 80:14 83:10
riley's (i) 48:3
road (i) 62:17 73:19,19
rolled (i) 61:3
room (i) 7:16 51:13 54:21 79:
21
roy (i) 25:13 26:20,21 27:1,4,

14 28:4 30:2,3,7,8,10 35:19,20
23 36:18 39:24 48:3,12 49:3,5,
6,8,11 50:3,8 51:2 53:10,23 54:
9 58:10 61:24 62:1 64:20 65:7
69:17 71:2 72:17 78:4 81:10
ruled (i) 21:6
rules (i) 72:22 74:10,14,15 76:
79:1,2
ruling (i) 83:21
rulings (i) 80:8 83:3,4
runs (i) 25:12
rustic (i) 73:19,19

S

sales (i) 11:19,21 26:1
salesmen (i) 64:19 71:3
salespeople (i) 18:20,22
same (i) 13:1 26:9 30:3 34:5
40:4 45:11,20,23 50:9 53:4,6
56:1,12 59:11 61:16 66:6 74:21
78:13,20
santa (i) 3:10 9:12,24 10:5,5
39:5 73:18
saturday (i) 60:13
saturdays (i) 39:3,6
save (i) 19:2
saw (i) 13:22 28:8 61:24
saying (i) 18:22 59:19 72:21,24
74:25 75:1 76:25
says (i) 37:5 39:11,15
scale (i) 21:18,24
scanners (i) 32:12,22 33:21 34:
3,7
school (i) 10:2,4,6
second (i) 37:5 52:7,11,12 53:
4 57:15 75:12,24,25 77:21,23
78:2,3,19,24 79:3,19,23 85:3
security (i) 5:22 10:23 26:13
37:6,7,11,13 39:16 45:18
see (i) 12:1 21:12 31:18,13 26:22
31:13,14 32:5 51:12,14 53:24
54:10
seeing (i) 33:7 35:10 53:11
seem (i) 29:14,23 30:8 35:20
40:20 41:11 74:5 75:23 86:16
seemed (i) 21:12 31:25 35:5
47:16 52:13 78:9,10
seems (i) 79:6
seen (i) 7:14,17 54:17
seidel (i) 3:4 4:5 5:11 9:2,4 12:
1,3 28:14,16 34:23 35:3 36:13
41:7,9 46:1,3 57:15,17 72:13
80:9,11 89:13
sell (i) 10:18,25 11:24
selling (i) 11:18,19 12:9 13:7
16:22
sells (i) 67:21
send (i) 83:22 88:19,20
sent (i) 85:12,12,16 86:13,13,
14
separate (i) 66:8 68:20
separated (i) 22:16
served (i) 54:23 87:17
service (i) 15:17 32:19,21,22
33:4 66:11 70:3,14 71:22
set (i) 13:7 43:19 48:4,10 91:12
sets (i) 49:23
several (i) 15:4 27:11 69:24 83:
2
sheet (i) 11:23 89:15
shoot (i) 76:6
short (i) 18:15 72:12
shorter (i) 23:24
shorthand (i) 91:13,24
shortly (i) 41:21
showed (i) 35:12
sic (i) 51:4
sign (i) 36:18 61:7,25 62:13,21
64:8,18 66:19,22 67:3,11 68:2
87:25 88:21,23
signals (i) 32:23
signed (i) 40:18 43:14,16 62:5,

CONDENSED TRANSCRIPT & WORD INDEX

23 63:10 64:21 65:20 85:14 86:8,14 88:6
signing (s) 40:17,20 44:8 64:25 73:2
similar (s) 56:1 74:19
simply (s) 16:13 19:1
since (s) 21:23 25:9 28:9 45:5 50:7 55:19 61:24
single (s) 42:24 66:9
sites (s) 57:14
sitting (s) 55:2,4
six (s) 64:7 66:18 68:23 87:25
size (s) 7:12,16
slow (s) 16:15,19
slowdown (s) 25:1
slowed (s) 16:13
slowing (s) 16:8,18
smug (s) 79:17
sobel (s) 57:5,9,19
social (s) 26:19,20,21
solicitation (s) 88:10
somebody (s) 71:17
somehow (s) 17:23
someone (s) 5:23 18:14 31:7,18 32:1 38:24 39:5 46:11,19 49:22 54:22 57:4 65:24 69:13 70:16 87:20
sometime (s) 36:19 41:21-47:12
sometimes (s) 11:8 70:7
somewhere (s) 23:20 31:8 34:13,16 38:22 50:18
son (s) 74:25
soon (s) 19:14
sorry (s) 9:22 10:19 20:11 23:12 32:16 45:12 47:13 51:20 53:21 59:13 74:16
sort (s) 6:5 9:20 13:8 30:4 42:18 44:8,11 46:11 55:8 66:5,8 67:15 78:20 84:6
sorts (s) 15:4
sound (s) 39:18
southland (s) 12:18,19,25 13:10 14:9,18 15:3,22 18:18 19:15 22:14,15,16 23:24 25:9,11,15,22,24 26:2,4,7 27:2,16 29:6,15 30:23 32:20 33:5 38:21,24 44:6 45:2,9,10 47:8 64:20
space (s) 34:24
speaking (s) 30:8 35:21,24 49:6
special (s) 11:20
specific (s) 9:16 11:24 13:6 14:25 17:22 29:2 57:12 62:6,24 70:8 72:21 73:15,25 77:8 78:1
specifically (s) 22:21 24:10 33:7 36:15 47:20 55:1 59:19 71:25 73:6,11 81:13
specifics (s) 56:19,21 70:19 73:16
specify (s) 17:8,8
speculation (s) 58:1,4,8
speeches (s) 55:8
spend (s) 16:6
spoke (s) 22:19-24:24 30:18,20 31:6,9 32:4 34:8,25 35:13 46:9 48:12,15 49:3 53:22 55:11 81:1,19
spoken (s) 28:9 61:21,21
st (s) 10:5
standard (s) 7:10 15:9 22:12 42:3 56:11,13 64:21
standing (s) 37:21
started (s) 29:5 41:19,21 83:12
state (s) 1:1 2:1,21 91:1,5
stated (s) 66:18 69:10
statement (s) 77:11 84:20 85:9,22 86:2,12
statements (s) 55:9
stating (s) 18:4 33:7
station (s) 4:11,12
statutes (s) 33:7,13
steal (s) 60:24 61:10
sticks (s) 27:9 47:11 55:12 64:6

still (s) 16:20 28:6 38:21 44:23
stipulate (s) 89:8
stipulation (s) 88:15
stock (s) 11:20 13:2,19 16:23
stolen (s) 65:3
stopped (s) 81:2
stopping (s) 80:15
store (s) 16:19 68:21
stores (s) 37:22,22
story (s) 16:4 33:9
street (s) 3:9
strenuously (s) 54:7
strike (s) 44:17 60:5
stuff (s) 6:5 29:5,7
subcontractor (s) 37:12
subscribed (s) 91:20
subsequent (s) 31:23
successful (s) 79:8
suit (s) 5:25 46:23
suite (s) 2:19
sullivan (s) 34:12
sunday (s) 60:13
superior (s) 1:1 2:1
supervision (s) 91:14
supplies (s) 11:8,9 13:15
suppose (s) 45:6 71:4 81:1
supposedly (s) 58:3
surprise (s) 21:23 49:10
suspect (s) 58:2 59:8,18
sworn (s) 5:7 91:9
system (s) 42:23
systems (s) 1:9,10 2:9,10 10:18 11:24 64:15

T

table (s) 55:2 58:20 79:20,21
tactics (s) 72:15
talked (s) 49:11 56:24 57:3 78:5
tampered (s) 75:15
taxi (s) 61:15
techs (s) 33:4
telephone (s) 20:10
telephonic (s) 80:10
temper (s) 59:4
term (s) 70:21
terminated (s) 17:18 18:5 45:2
termination (s) 18:2 24:8
terms (s) 27:19,21,23
test (s) 39:7
testified (s) 5:8,23 41:9 46:3 52:18 87:13
testify (s) 6:9
testifying (s) 6:4 20:5
testimony (s) 6:20 7:4 8:14,17 14:13 45:22 64:7 87:23 90:10 91:15
there's (s) 47:10 66:1
thereafter (s) 91:13
thereby (s) 41:14
therein (s) 91:12
thereof (s) 91:19
thick (s) 83:2
thinking (s) 14:16 43:18 54:24 82:14
third (s) 39:10
though (s) 8:4 82:23
three (s) 24:22 30:22
throughout (s) 32:15
ticket (s) 32:22
tickets (s) 32:20,21 54:18 71:22
tie (s) 42:15 61:17
timecard (s) 23:16
tire (s) 75:13,15
title (s) 10:12 62:11
today (s) 6:14,19,20,22,24 8:14,17 10:10 87:2,23 88:13
together (s) 26:24 51:2 54:1,3 79:25
took (s) 12:22 39:7 50:20
top (s) 57:14
totally (s) 17:17
touch (s) 80:22

touched (s) 68:25
toward (s) 73:21
towards (s) 20:1 74:1,17 75:3 76:2
town (s) 49:12,14 78:7 80:22
traffic (s) 32:13
training (s) 39:6
transcribed (s) 91:13
transcribing (s) 6:14
transcript (s) 34:17,18,24 88:18,22 89:3,4,5,15,16
transfer (s) 36:25 61:8 63:13
transmit (s) 42:21
trial (s) 5:23
trick (s) 60:24
tried (s) 31:18 82:12
trouble (s) 44:24
trucking (s) 42:16,17,23
true (s) 18:13 19:8 43:24,25 90:9 91:15
truth (s) 6:4 91:9,9,10
truthfully (s) 6:9
try (s) 13:25 17:22 58:18
trying (s) 18:16 19:1 54:11 55:21 56:16 75:19 77:3,6
turn (s) 42:16
two (s) 8:21 9:10 30:22 36:4,10 39:3,6 41:24 50:17 52:8,25 66:3,10 73:9 80:12 81:7,23 85:5,5,6,23 86:23 87:1
two's (s) 13:14
two-way (s) 15:8,10 16:20 67:16 68:9
tying (s) 43:11
typewriting (s) 91:13

U

u.s (s) 46:11,20 51:8
uncooperative (s) 19:9 24:15
under (s) 6:4 66:5 88:17,22 90:7 91:14
understand (s) 6:11 7:2,6,7,23 11:21 12:3 13:18 18:3 20:22 31:14 32:5 50:4 58:4 67:7
understanding (s) 6:7 18:15 22:10 42:2 76:19,24 77:19
understands (s) 22:4
understood (s) 7:24
unemployed (s) 20:23
unemployment (s) 16:3,24 18:4 19:2,4,19 20:5 21:2,7,21 22:11,21 25:3 45:8
unfair (s) 24:21
unfit (s) 77:7,9,14
unit (s) 42:20
units (s) 33:21 42:23 43:23
unless (s) 66:9
unmodel (s) 19:7
unsurveillance (s) 38:17
until (s) 28:7
unusual (s) 42:6
up (s) 9:23 11:9,19,20 13:15 18:10 28:7 32:13,19,21,23 33:12 34:3 40:2 42:15 43:11 48:10 49:23 54:17 56:20,22 58:9,19 61:9,17 62:19 67:21 77:25 78:25 79:8,16,20 80:5,6 88:6 89:5
using (s) 41:14 61:13 67:22 68:10 69:13

V

vague (s) 13:17 54:2
vaguely (s) 35:10,23 55:6 77:24 80:15 82:8 87:16
valid (s) 17:13,15,17 18:1
valuable (s) 66:12
value (s) 66:1,14
van (s) 19:23 23:24 45:24 75:14
various (s) 26:23
vendors (s) 14:1
ventura (s) 2:19 3:5
verbal (s) 8:6

versa (s) 32:17
vice (s) 32:17
violating (s) 76:4
violent (s) 59:4
voluntarily (s) 61:18
volunteering (s) 38:15

W

wait (s) 31:5 37:21
walks (s) 18:14
wanted (s) 14:2 16:21 21:2 30:25 32:11 36:25 47:20 48:6 50:15 54:15 61:16 63:9 69:23 77:12 80:5,22
warehouse (s) 10:13 13:1 18:1 68:21
watch (s) 37:22 38:16 42:21
way (s) 8:24 17:16 21:14 24:19,20 30:14 38:6 43:11 44:3 49:15 51:20 54:18 61:3 65:23 67:3 70:5 73:24 74:3,20 79:11 86:16,18 91:18,19
ways (s) 69:18
wear (s) 46:23
week (s) 13:14 19:16 20:23 21:7 50:17
weekend (s) 60:8,10,15
weeks (s) 37:15
whatever (s) 11:18,19 36:25 40:10 43:19 65:21 78:23
whatnot (s) 53:19 83:21
whatsoever (s) 86:23
whereby (s) 88:16
whereof (s) 91:20
whether (s) 11:7 30:11,15 32:14 33:16 56:9,16 60:12 64:25 70:5
whittier (s) 31:8
whoever (s) 62:21
whole (s) 27:11 53:17 68:1 77:25 91:9
will (s) 6:13,15 7:24 12:15 19:25 22:3 34:21,23 42:21 88:18,22 89:4,15,16
willing (s) 28:25
within (s) 2:21 8:9 50:17,18 88:20 91:4
without (s) 7:22 38:23
witness (s) 4:4 5:6 28:18,25 36:10 84:20 91:8,16,20
witnesses (s) 54:10 80:5
woman (s) 54:25 55:6 57:22 79:22
word (s) 21:13 24:14
worded (s) 76:11
wording (s) 24:11
words (s) 24:16
work (s) 10:10,11,19 12:16 23:9 25:1 26:22 37:11 41:22 57:13 60:16 67:8
worked (s) 5:17,20 12:14 19:24 22:15 25:16 26:8,9 44:5 45:24 61:5 62:16 64:20 74:12
working (s) 12:16 22:17 38:21 41:21 45:5 68:19,20
works (s) 42:18 67:7 69:3
worry (s) 60:15
worth (s) 13:14
worthwhile (s) 66:12
wrecking (s) 61:14 69:25 70:13,20,21
write (s) 32:19,21 34:18 89:14
writing (s) 54:17
written (s) 41:28,20,22 39:7 84:10
wrongdoing (s) 33:20 64:18
wrongful (s) 5:24
wrote (s) 71:22

Y

year (s) 9:10 27:11 28:8 29:4,6,14,15 47:8,17 50:18
years (s) 12:15 24:23 28:10 41:

CONDENSED TRANSCRIPT & WORD INDEX

24 74:12
yourself 131 64:24 68:13,16

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3
4
5 JAMES A. KAY, JR.,
6 Plaintiff,
7 vs.
8 HAROLD PICK, GERARD PICK,
9 individually and doing business
10 as COMPUTER CONSULTANT AND
11 SYSTEMS and doing business as
12 COMMUNICATION CONSULTANT AND
13 SYSTEMS and doing business as
14 LANCE HARDY BEST ADVERTISING and
15 DOES 1 through 25, inclusive,
16 Defendants.

Case No. LC 823368
VOLUME II

17 DEPOSITION OF ROY JENSEN
18 TUESDAY, MAY 19, 1998
19 ENCINO, CALIFORNIA
20
21
22
23
24
25

142

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2
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Also Present: James A. Kay, Jr.

144

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3
4 JAMES A. KAY, JR.,
5 Plaintiff,
6 vs.
7 HAROLD PICK, GERARD PICK,
8 individually and doing business
9 as COMPUTER CONSULTANT AND
10 SYSTEMS and doing business as
11 COMMUNICATION CONSULTANT AND
12 SYSTEMS and doing business as
13 LANCE HARDY BEST ADVERTISING and
14 DOES 1 through 25, inclusive,
15 Defendants.

Case No. LC 823366
VOLUME II

16 DEPOSITION OF ROY JENSEN, taken on
17 behalf of the Plaintiff, commencing at 9:15 a.m., at
18 18875 Ventura Boulevard, Encino, California, on Tuesday,
19 May 19, 1998, before MARCHELLE HARTWIG, CSR No. 9347,
20 within and for the County of Los Angeles, State of
21 California, pursuant to subpoena.
22
23
24
25

143

1 INDEX
2
3 WITNESS EXAMINATION PAGE
4 Roy Jensen (By Mr. Seidel) 146
5 (By Mr. Lurya) 208
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
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25

145

37-1

1 ENCINO, CALIFORNIA - TUESDAY, MAY 15, 1998
2 9:18 a.m.
3
4 ROY JENSEN,
5 having been first duly sworn, was
6 examined and testified as follows:
7
8 EXAMINATION
9 BY MR. SEIDEL:
10 Q Mr. Jensen, good morning.
11 A Hi.
12 Q Thank you for returning. You were just
13 administered an oath. Did you just hear the oath?
14 A Yes.
15 Q Do you agree with --
16 MR. SCHAUBLE: Excuse me. Could I ask Mr. Jensen
17 to speak up. I can hardly hear him
18 THE WITNESS: I'll try.
19 MR. SCHAUBLE: Okay.
20 BY MR. SEIDEL:
21 Q And you agree today to testify truthfully
22 under penalty of perjury, correct?
23 A That's what I said yes to.
24 Q Now, you recall the last deposition that we
25 had?

146

1 now make a statement.
2 MR. SCHAUBLE: Okay. At the first session of
3 Mr. Jensen's deposition there was certain testimony
4 concerning a statement by Mr. Jensen. I believe there
5 was testimony from Mr. Jensen to the effect that he
6 believes the statement in question might have been a
7 witness statement to the Commission. After the
8 deposition we went back and reviewed our records, and
9 we've determined the statement in question is not a
10 witness statement in the FCC's possession, but is an
11 attachment to the statement in question. And, Joel, I
12 would note for your purposes that the statement in
13 question is dated back in 1992, and the witness statement
14 in question is dated May 13, 1995. I just want to make
15 that statement to clarify the record.
16 MR. SEIDEL: Thank you, John.
17 Q Mr. Jensen, are you aware that you have been
18 listed as a witness in the FCC proceeding against
19 Mr. James Kay?
20 A Well, I think I'm a potential witness.
21 That's my understanding of why I'm here
22 Q I'm going to be asking you some questions
23 about your knowledge as to facts that the FCC believes
24 you may know about Mr. James Kay.
25 A Okay.

148

1 A Yes.
2 Q Do you recall that I gave you a number of
3 admonitions regarding instructions for the deposition?
4 A I remember you did. I don't remember what
5 they were.
6 Q Do I need to go through that again for you?
7 A Please don't.
8 Q Okay. Real briefly --
9 Then we'll get to you, John.
10 Did you have a chance to review the
11 deposition transcript?
12 A No, but can I ask a question? Who is the
13 gentleman in the middle?
14 Q That is Mr. Paul Oel who works for the FCC.
15 A Okay.
16 Q That's spelled?
17 MR. OEL: O-e-l.
18 BY MR. SEIDEL:
19 Q Did you have a chance to review the last
20 deposition?
21 A No, I have not looked at it.
22 Q Is it true that I made that deposition
23 available to you at my office?
24 A Yes, you did.
25 MR. SEIDEL: I have nothing further, John. You

147

1 Q Before I do that, I want to work on a
2 definition that we both understand. Do you know what the
3 definition of -- strike that.
4 Do you know what personal knowledge is?
5 A I suggest you should explain it to me if you
6 want to go by your definition.
7 Q I just want to have an agreement as to that
8 definition. Personal knowledge for the purposes of today
9 is information that you have personally witnessed or
10 acquired without the help of a third party. In other
11 words, information you did not learn from someone else.
12 Are you willing to go along that definition today?
13 A If I saw a written document filled out by
14 someone else, it would not be personal knowledge because
15 the information is written down by someone else. Is that
16 what you are saying?
17 Q I'll clarify. If you saw someone fill out a
18 document, you have personal knowledge as to that
19 individual filled out that document. You do not have
20 personal knowledge as to the information on that document
21 presumably. Do you understand now the definition?
22 A What if someone represented it to be true to
23 me?
24 Q Then you would have personal knowledge as to
25 the fact that someone represented it to be true to you.

149

37-2

1 A Okay. I'm good with that.
2 Q We have a working definition now?
3 A I think so.
4 MR. SEIDEL: Does the FCC have any problem with my
5 definition?
6 MR. SCHAUBLE: No. I don't believe so.
7 MR. SEIDEL: Thank you.
8 MR. SCHAUBLE: I might make one clarification that
9 if somebody told Mr. Jensen something he would have
10 personal knowledge that he was told that, but he would
11 not necessarily have personal knowledge of what he was
12 told by that person.
13 MR. SEIDEL: Exactly.
14 Q The FCC has listed you, Mr. Jensen, as
15 someone with knowledge concerning Mr. James Kay's loading
16 practices. Do you have personal knowledge as to
17 Mr. James Kay's loading practices?
18 A Yes.
19 Q How did you gather that personal knowledge?
20 A I suppose most of the things that I would
21 consider myself knowledgeable about are things that he
22 either told me or showed me in person.
23 Q Okay. So you have personal knowledge as to
24 things Mr. Kay told you and as of things that Mr. Kay
25 showed you?

150

1 many particular radios would be on a particular channel?
2 A I suppose at a time I would have known in
3 some cases the number. Generally speaking there are
4 licensing restrictions on how many radios are supposed to
5 be on a channel.
6 Q I am going to interrupt you because that's
7 not responsive to my question. My question is I need to
8 know your personal knowledge as to exactly how many
9 radios would be operating on a specific frequency.
10 A That would depend on the frequency.
11 Q Okay. Did you ever have personal knowledge,
12 meaning you personally knew, how many radios were on any
13 specific frequency?
14 A Yes.
15 Q Would this be one particular frequency or
16 numerous frequencies?
17 A It would be a number of frequencies and not
18 necessarily the same frequency from time to time. The
19 numbers changed periodically.
20 Q Now, how would you gather -- strike that.
21 How did you learn how many radios were on a
22 specific frequency?
23 A For the most part Mr. Kay would share with
24 me that information and represent it to be so.
25 Q So let me go back to my definition of

152

1 A I'm not saying that those are all the things
2 he ever did in the area, but some things he did share
3 with me obviously he shared me with, and thus I know he
4 shared then with me.
5 Q We are going to get more detailed, but can
6 you give me a description of your knowledge as to
7 Mr. Kay's loading practices?
8 A In what regard? I'm not sure from your
9 questions -- sometimes it seems you may not be that
10 familiar with the mechanics of running a radio shop, and
11 so I don't know if you ask a question about a technical
12 aspect such as programming a radio and loading a channel
13 technically are you getting a regular sound, or are you
14 doing paperwork to support that or meeting customers for
15 marketing to support that?
16 Q I'll be more specific with you. Mr. Kay's
17 practices with putting customers on channels.
18 A Technically?
19 Q Physically. Actually putting customers on
20 channels.
21 A Okay.
22 Q I want to discuss that with you for a few
23 moments.
24 A Okay.
25 Q Did you have personal knowledge as to how

151

1 personal knowledge with you. You have personal knowledge
2 as to what Mr. Kay told you regarding how many radios
3 were on a particular frequency, but you don't have
4 personal knowledge such as having programmed those radios
5 yourself?
6 A I may have supervised the people that
7 programmed them and thus verified that a number of radios
8 were put on a frequency. You are asking a question that
9 the answer to is not the same for all frequencies and
10 it's not the same for all time.
11 Q A moment ago I asked you how you gained your
12 personal knowledge with respect to how many radios were
13 on a frequency, and you answered from statements Mr. Kay
14 would make.
15 A Generally speaking that would be true.
16 Q Other than from statements that Mr. Kay
17 would make, how would you gain your knowledge as to how
18 many radios were on a particular frequency?
19 A It's conceivable I would look up a
20 maintenance record and just verify that they had that
21 many radios on that frequency.
22 Q So to ascertain or -- strike that question.
23 Your knowledge with respect to how many
24 radios were on a particular frequency came now from, per
25 your testimony, Mr. Kay and maintenance records. Any

153

37-3

1 other sources as to your knowledge as to how many radios
2 were on a particular frequency?
3 A Well, a sales record is a potential source.
4 and also I'm assuming that we are talking about Mr. Kay's
5 loading of -- any other competing loading on the same
6 channel. Even though the plumber down the street might
7 have five count, I wouldn't know if he has five
8 operational radios. I'm not pretending to know what the
9 neighbor did.
10 MR. SCHAUBLE: I'm sorry. I didn't hear the last
11 part of what Mr. Jensen just said.
12 THE WITNESS: I'm saying that if the plumber next
13 door had a five count on a frequency, I wouldn't know if
14 they were five operational units on the air or not. I'm
15 not pretending to know what some other entity who shares
16 a channel might have on the air.
17 BY MR. SEIDEL:
18 Q Let me see if I understand the last half of
19 your last answer. You are stating that you don't know
20 how many other radios would be on a specific frequency
21 that someone else might be operating other than Lucky?
22 A Correct.
23 Q So you would look at -- to rephrase your
24 testimony, to get knowledge as to Mr. Kay's loading
25 practices with respect to the number of radios on a

154

1 it.
2 Q Okay. Now, other than the FCC application
3 which listed a number of radios under your name, actually
4 under the name of Financial Consolidated Holdings, do you
5 have any personal knowledge as to whether Mr. Kay
6 overstated the number of radios he was providing repeater
7 service to?
8 A Well, I suppose Hessian Security was a
9 similar circumstance, and I knew there was, A, no such
10 company and, B, the person who was -- presumably the
11 person that represented the company did not have any
12 quantity of radios in his possession to be on any
13 frequency.
14 Q So, again, other than the licenses which
15 were held by you and the licenses which were held by
16 Mr. Hessian, do you have any personal knowledge as to
17 Mr. Kay overstating the number of radios he was providing
18 repeater service to?
19 A Well, to the extent that he said so himself.
20 I am not able to verify that what he said was truthful at
21 the time, but that would be the extent of knowledge that
22 he said so sometimes.
23 Q Now, let me just sum this up and we'll go on
24 from here. Your personal knowledge with respect to any
25 overstating of the number of radios Mr. Kay would provide

156

1 particular frequency, you would get that information from
2 either Mr. Kay or some sort of record that was kept at
3 either Lucky's or Southland?
4 A Generally speaking. You have to understand
5 that radios are not always programmed on one frequency.
6 They can be programmed on many. And no one, short of
7 listening at a given point in time, will be able to know
8 whether or not the radio is transmitting on a particular
9 frequency if it has 4 or 16 or 28 frequencies in it.
10 Q I understand and I appreciate your answer.
11 Do you have any personal knowledge as to whether Mr. Kay
12 ever overstated the number of radios which he was
13 operating at any time?
14 A I do believe that would be true.
15 Q Meaning you believe you have personal
16 knowledge that he was overstating the number of radios
17 that he was providing service to?
18 A Correct.
19 Q Where would you have gathered that personal
20 knowledge?
21 A The last deposition we discussed a form that
22 had been filled out that I signed, and we discussed it at
23 length that I had signed it not being comfortable, and
24 those units certainly were not being put on the air by me
25 even though they were counted by Mr. Kay for purposes of

155

1 repeater service to would consist of the licenses held by
2 you, Mr. Hessian and statements that Mr. Kay may have
3 made to you?
4 A And conceivably the maintenance records.
5 Q Is that the universe of your knowledge as to
6 Mr. Kay's possible --
7 A Those are the obvious things that come to
8 mind. There might have been other sources I might have
9 known about at the time. I may have seen a listing or
10 something, but corporate records in some form like
11 maintenance records, I suppose.
12 Q Now, I want to speak with you about the
13 licenses which you held in your name. Do you recall how
14 many frequencies there were?
15 A No. I'm not sure.
16 Q Do you recall how many radios were licensed
17 for those frequencies?
18 A No.
19 Q Do you know for certain that radios were not
20 put on those frequencies?
21 A I'm sure radios were put on those
22 frequencies at some point. I'm sure that they were not
23 put on as indicated by the application I signed.
24 Q Let me understand this. You signed an
25 application, the number of which you don't know, which

157

37-4

1 stated certain -- let me finish my question; then you may
 2 correct me -- which stated that a certain number of
 3 radios were going to be operated by Consolidated
 4 Financial Holdings; correct?
 5 A No.
 6 Q Where am I incorrect?
 7 A You said I didn't know the number. At the
 8 time I knew the number. I don't recall it now. You need
 9 truly to distinguish the difference between what I recall
 10 today and that I knew something I signed said something
 11 particular at the time. Of course I would have known the
 12 number at the time.
 13 Q Today do you know how many applications you
 14 signed?
 15 A No.
 16 Q Do you know how many frequencies for which
 17 you obtained licenses?
 18 A No, I don't recall.
 19 Q Do you know how many radios were listed to
 20 operate on the specific frequencies?
 21 A I'm not sure how many count the license
 22 asked for. What the license application asked for and
 23 what's granted may or may not have been the same. I
 24 would not know either one of the two.
 25 Q Do you know whether or not Mr. Kay provided

158

1 Q Do you know at any point whether he did or
 2 not?
 3 MR. SCHAUBLE: Whether he did that or not?
 4 MR. SEIDEL: Thank you, John.
 5 Q Do you know whether at any point Mr. Kay
 6 provided repeater service under the licenses for which
 7 you had -- strike that.
 8 Do you know whether at any point Mr. Kay
 9 provided repeater service to radios on the frequencies
 10 for which you had licenses?
 11 A It's conceivable he had done it since.
 12 Q Do you know is my question?
 13 A I know he didn't at the time. He may have
 14 since.
 15 Q At the time? What do you mean "at the
 16 time"?
 17 A At the time he did not have the radios on
 18 there for which the license was asking for.
 19 Q What time are we talking about? When you
 20 signed it?
 21 A When it was signed.
 22 Q How long after it was signed did he continue
 23 to not have radios on those frequencies?
 24 A For quite a while I would assume.
 25 Q You assume. Do you know is my question?

159

1 repeater service to radios which operated on the
 2 frequencies for which you had licenses?
 3 A He may have or may not have. He certainly
 4 would at some point.
 5 Q Then with respect to the licenses held by
 6 you, it's very probable that radios were put on those
 7 frequencies and Mr. Kay was not overstating his loading;
 8 is that not correct?
 9 A No. That's far from the truth.
 10 Q Explain to me.
 11 A I truly need to know. Do you not understand
 12 how licensing works, because what you are asking me seems
 13 to imply that you don't follow the mechanics?
 14 Q I'm not asking you -- I don't want to
 15 interrupt you, but I don't want to spend 60 pages on
 16 dissertation. I need to know your knowledge as to
 17 whether or not radios were put on certain frequencies. I
 18 don't need to know the licensing practices or your
 19 knowledge of them.
 20 Do you know now whether or not Mr. Kay put
 21 radios on the frequencies for which you held licenses?
 22 A At what point?
 23 Q At any point.
 24 A He could have done it yesterday. I would
 25 not know that.

159

1 A I can't tell you the exact date. I can tell
 2 you there was no such thing at the time the licenses came
 3 through.
 4 Q Do you know a month after the licenses were
 5 granted whether or not radios were on those frequencies?
 6 A There might have been a count at some point.
 7 It could have been a month. It could have been a year
 8 later. I would not know exactly.
 9 Q Yes or no, Mr. Jensen. Do you know if at
 10 any point Mr. Kay put radios on the frequencies for which
 11 you had licenses?
 12 A At any point including yesterday or this
 13 morning? No.
 14 Q Now, you spoke about Mr. Hessian's licenses.
 15 Do you know if at any point whether Mr. Kay put radios on
 16 the frequencies for which Mr. Hessian held a license?
 17 A No. It's the same as the other one. I
 18 assume he did at some point.
 19 Q So other than your assumptions, you don't
 20 know?
 21 A I know what he didn't do. I can't say what
 22 he did.
 23 Q What didn't he do?
 24 A He didn't have licenses -- or the radios on
 25 the frequency at the time the license was -- the

161

37-5

1 application was filed on the license came through. He
2 may have put them on later.
3 MR. SEIDEL: Let's take a break for one moment.
4 MR. SCHAUBLE: Are we going off the record?
5 MR. SEIDEL: Yes.
6 (Mr. Lurya joined the deposition
7 proceedings.)
8 MR. SEIDEL: We are back on the record, John.
9 MR. SCHAUBLE: Okay, Joel.
10 BY MR. SEIDEL:
11 Q As an aside, Mr. Jensen, you have mentioned
12 maintenance records numerous times. Do you have any
13 maintenance records from Mr. Kay's business?
14 A No.
15 Q Did you ever take any maintenance records
16 from Mr. Kay's business?
17 A No.
18 Q Now, I just want to finish this one area
19 with respect to you and your licenses. Your testimony,
20 correct me if I am wrong, is that at the time that you
21 signed applications for licenses, Mr. Kay was not
22 operating radios on those specific frequencies to your
23 knowledge.
24 A Correct.
25 Q But sometime subsequent to that license

162

1 those licenses were granted?
2 A I do not know that he operated radios on the
3 frequencies, no.
4 Q And you do not know that he did not operate
5 radios on those frequencies, isn't that also true?
6 A He did not at the time.
7 Q We'll be here all day if I have to.
8 Mr. Jensen. How do you know he did not? Personally how
9 do you know he did not?
10 A There weren't any radios put on the
11 frequencies at that time. They may have been put on
12 later.
13 Q What is your evidence?
14 A We didn't sell any. We didn't put any on,
15 and the license didn't get switched until later.
16 Q You are not answering my question
17 Mr. Jensen --
18 MR. SCHAUBLE: Objection, Joel. I think he is
19 answering your question.
20 MR. SEIDEL: Your objection is noted, John.
21 THE WITNESS: If I may clarify my position. If I
22 stepped on your foot, even though it hurt you may not be
23 able to prove it to me. It's that type of thing.
24 Even though to the extent that I believe
25 that that was the case, I do not have a photograph

164

1 being granted to you, he may have been operating radios
2 on these frequencies?
3 A Of course he may have. Years later, of
4 course he could.
5 Q It could have been months later for all you
6 know; correct?
7 A It could have been, but it wasn't. If you
8 define months as 100 months, sure, that could well be.
9 Q How do you know he did not put radios --
10 A Because I was still there.
11 Q Let me finish my question. How do you know
12 that Mr. Kay did not operate radios on those frequencies
13 within a couple of months or a few months of the licenses
14 being granted?
15 A At the time the representation was he did
16 not.
17 Q That's not an answer to my question. How do
18 you know?
19 A You asked if I had personal knowledge. If
20 you told me I would say you told me. On that basis I
21 would know. I'm not verifying that the statement is
22 truthful. I'm saying that that is what I was told.
23 Q Do you have any personal knowledge as to
24 whether or not Mr. Kay operated radios on the frequencies
25 for which you had licenses within a few months after

163

1 showing radios not existing on the air. I can't give
2 that to you. You can ask again, but it's my
3 understanding that there were no radios on at the time;
4 otherwise the whole thing would not have been necessary.
5 BY MR. SEIDEL:
6 Q It's your understanding that there were no
7 radios on the frequencies for which you had licenses at
8 the time applications were signed; correct?
9 A For the counting question. I kind of
10 presume nodicum knowledge that we are talking about the
11 licensing portion of the channel, not the other 20 or 30
12 or 50 or whatever units might have been allowed on the
13 channel. Some of those might in fact exist prior to.
14 Q Do you know which specific stations were
15 licensed on which Mr. Kay did not place radios in
16 service?
17 A I would not recall that. I probably would
18 have known at the time.
19 Q Do you know which year those licenses were
20 granted to you?
21 A I don't recall now. Obviously I would have
22 known at the time I received them.
23 Q I presume you would have known what year it
24 was?
25 A I would have known what day of the calendar

165

37-6

1 it was, yes.
 2 Q Do you know which licenses were granted to
 3 Mr. Hessian?
 4 A I don't recall today. I saw licenses at the
 5 time.
 6 Q Do you recall which year it was?
 7 A Not today I don't. In fact, if you looked
 8 then up, I trust whatever date it says on the document
 9 you pull up will be the truth, but I don't recall today.
 10 Q How is it that you are able to state
 11 today -- strike that.
 12 Do you know when, if ever, Mr. Kay placed
 13 radios in service on the frequencies for which
 14 Mr. Hessian was granted a license?
 15 A Do I know when he did?
 16 Q When, if ever?
 17 A I don't know that he did, no.
 18 Q Do you know that he did not?
 19 A No. I know at the time the radios weren't
 20 on there. They may well have been since. They probably
 21 have been since, but I don't think so.
 22 Q Let me just see if I can sum up your
 23 testimony now. At the time the licenses were granted to
 24 both -- strike that.
 25 At the time the applications were signed by

166

1 discussion we had. I don't recall the specific call
 2 signs or whatnot today.
 3 Q Can you mention any specific license for
 4 which -- strike that.
 5 Can you state any specific frequency
 6 regarding which Mr. Kay overstated his loading?
 7 A I can't quote you a frequency today.
 8 Q Can you state any specific license regarding
 9 which Mr. Kay overstated his loading?
 10 A Except the ones we discussed.
 11 Q Except the ones that we have discussed
 12 regarding you and Mr. Hessian?
 13 A I truly don't recall the call signs today.
 14 Q Can you state any license holders other than
 15 you or Mr. Hessian for which Mr. Kay overstated his
 16 loading?
 17 A Well, we discussed in the last deposition
 18 the fellow employees that were in a similar situation.
 19 At some point I know I either saw -- or saw information
 20 about some of those licenses, but I can't tell you
 21 exactly which ones were call signs and stuff. I didn't
 22 memorize them.
 23 Q So today you can't give me a specific
 24 license holder?
 25 A No.

168

1 both you and Mr. Hessian, the radios listed on those
 2 applications were not yet in service?
 3 A Correct.
 4 Q At some time subsequent to the granting of
 5 those licenses, Mr. Kay may have placed radios on these
 6 frequencies?
 7 A He may have.
 8 Q But you have no real personal knowledge as
 9 to whether or not he did?
 10 A If he did while I was still there, I might
 11 have known at the time during the couple years I was
 12 there. If it happened during that period I might have
 13 known at the time. I do not recall today.
 14 Q Sitting here today, do you have any personal
 15 knowledge or recollection as to whether or not Mr. Kay
 16 ever placed radios on the frequencies for which licenses
 17 were granted to either you or Mr. Hessian?
 18 A I cannot give proof to you today that he
 19 placed radios on the frequencies.
 20 Q Other than the licenses which were granted
 21 to either Mr. Hessian or yourself, do you have any
 22 personal knowledge as to any other frequencies for which
 23 Mr. Kay stated a certain number of radios were being
 24 operated but were not?
 25 A Well, at the time there was an occasional

167

1 MR. SEIDEL: We are going to go off the record for
 2 a moment, John.
 3 (Recess was taken.)
 4 MR. SEIDEL: Back on the record.
 5 Q Mr. Jensen, other than the applications
 6 which you signed and Mr. Kevin Hessian signed, did you
 7 see any other applications which Mr. Kay submitted to the
 8 FCC for licenses?
 9 A Oh, I saw applications all the time.
 10 Q Can you specifically name any of them? The
 11 names of them?
 12 A No. It was an everyday occurrence that they
 13 had licensing forms going back and forth.
 14 Q So you can't recall any specific
 15 applications. You believe you saw them in your everyday
 16 dealings at Southland?
 17 A Your question was did I see a license? The
 18 answer was yes. I didn't get asked if I examined them or
 19 read them or participated in filling them out. Of course
 20 I saw a lot of them. They were an everyday part of the
 21 business.
 22 Q Applications, not licenses.
 23 A Applications.
 24 Q Can you name the proposed licensees other
 25 than yourself and Mr. Hessian?

169

37-7

1 A Not today.
2 Q Thank you. Did you have access to Lucky's
3 loading records?
4 A Only to the extent he might have had the
5 printouts and talked about some topic I noted.
6 Q If you needed to find out how many radios
7 were on a specific -- strike the question.
8 In the normal course of your job, did you
9 have access to Lucky's records?
10 A In the normal course of my work I would
11 occasionally see Mr. Kay working with the records and
12 occasionally he would show them to me. I did not have
13 independent access to them. They were locked up in a
14 separate part of the company.
15 Q When you worked at Southland, were you aware
16 that Lucky's operated a number of radios for other
17 dealers?
18 A You mean operated radios or repeater sites
19 where I put all the dealers' customers on?
20 Q Either one.
21 A Yes.
22 Q So then isn't it a correct statement that
23 there are a number of radios for which Mr. Kay provided
24 repeater service which weren't actually sold by
25 Southland?

170

1 what was already a small total.
2 Q So you had knowledge of most of the sales
3 that Lucky's made?
4 A They might have repaired radios on behalf of
5 Lucky's and thus seen it through service records where it
6 might have simply said, "Joe Blow ordered another five
7 radios, and I'm selling them through Lucky's because of
8 X, Y, Z reason," or Lucky's had something in their
9 possession that they could sell to a customer. I might
10 have heard about it as a conversational topic. There
11 might have been some, as I say, that I did not know
12 about. Surely there are details I did not know about.
13 Anyplace you work you don't know everything that goes on.
14 Q During your employment at Southland, did you
15 ever inspect applications for licenses prior to those
16 applications being sent to the Commission for approval?
17 A I might have looked over or discussed
18 something on them, but normally speaking I wouldn't be
19 the one to verify their accuracy for purposes of
20 conforming with the filling in of the blanks portion of
21 the forms.
22 Q Who would have been the person to verify the
23 accuracy?
24 A Mr. Kay generally speaking would be the one
25 that would do that.

172

1 A That is true.
2 Q So there are a number of radios of which --
3 strike that.
4 According to your testimony, there would be
5 numerous radios on numerous frequencies about which you
6 would have no knowledge?
7 A Sure there were radios I didn't know about.
8 MR. SEIDEL: Would you read back what he just
9 said?
10 (Record read.)
11 BY MR. SEIDEL:
12 Q Were there any sales which Lucky may have
13 made that you wouldn't have knowledge of?
14 A It's conceivable. They probably did make a
15 handful of sales, most of which I would have known about.
16 There might have been some I did not know about, but it
17 was not a large quantity if it was.
18 Q I didn't understand the last part of your
19 answer. It was not a large quantity if it was. Would you
20 elaborate, please?
21 A If, say, in a one-year time span, for the
22 sake of argument, there were ten sales. I would know
23 about nine, and it would be five radios each on the
24 average. I wouldn't have known about the last five as an
25 example is what I'm talking about. A small quantity of

171

1 Q We are going to switch topics, Mr. Jensen.
2 I say that just to prepare you. Do you have any
3 knowledge as to any interference with radio
4 communications Mr. Kay may have done?
5 A Interference is an everyday occurrence.
6 Q Let me change my question because your
7 answer is responsive to my question. Any purposeful
8 interference with another operator's channels?
9 A Well, are you asking him personally put his
10 hand on the dial, so to speak, or one of his customers
11 doing it through programming or whatnot?
12 Q Did you ever personally witness Mr. Kay
13 interfere with another operator's channels?
14 A I do remember at least one time that's sort
15 of memorable.
16 Q That you saw Mr. Kay personally interfere?
17 A That's what he claimed he did.
18 Q Did you see it?
19 A I saw what he did. I don't know what the
20 net effect would have been to the other guy at the other
21 end. I mean, if you are asking me to be at some type of
22 receiving end of a radio signal and asking what the
23 impact was I wouldn't know. I can tell you normally what
24 it would have resulted in.
25 Q Would you describe the incident you are

173

37-8

1 talking about.
2 A Yeah. He was working on one of his Motorola
3 service monitors, and he hung a dead carrier on a
4 Motorola system, on one of their data channels.
5 Q Would you repeat your last answer, sir.
6 A Yeah. He hung a dead carrier on a Motorola
7 data channel, on one of their data channels. He sent a
8 radio signal to one of the channels that controls the
9 trunking logic of the Motorola system so that it had
10 busied out.
11 Q Do you know what station that was?
12 A No. I wouldn't know what station it was.
13 It was represented to be a Motorola owned system.
14 Q Is this what Mr. Kay said he had done or is
15 this what you --
16 A Yes.
17 Q I need to finish my questions, Mr. Jensen,
18 or we will have a very unclear record. Is this what
19 Mr. Kay said he had done, or is this what you determined
20 by watching Kay's actions?
21 A This is what he said he was doing when he
22 was doing it.
23 Q Other than what Mr. Kay had told you with
24 respect to his actions regarding interference, you would
25 have no personal knowledge as to whether or not he was

174

1 Q I don't need to know what a signal does. I
2 need to know what you saw.
3 A He sent a signal to that frequency.
4 Q Did you see the signal?
5 A He dialed it up on the transmitter, and the
6 then the signal goes out the antenna on the roof.
7 Q Other than seeing him dial up the frequency,
8 what did you see actually happen?
9 A After a while it locked on.
10 Q Locked or log?
11 A Locked on. Just like a target system locks
12 on when the military is sending out something.
13 Q How can you determine that something is
14 locked on?
15 A On the thing there is no longer activity at
16 the other end transmitting, but it's only in the receive
17 mode. Your signal is now holding open the channel.
18 Q But you can look at the machine and see
19 that?
20 A Yeah, that's what you see.
21 Q So there is a dial or something that you
22 see?
23 A There is a dial. It's the readout. There
24 is an oscilloscope or something that shows -- there is a
25 lot of technical stuff.

175

1 interfering with another channel?
2 A Well, I wouldn't know from being at the
3 other end not being able to talk that it didn't work
4 anymore, but I can tell you technically that's what is
5 supposed to happen if you do that.
6 Q I would like for you to describe for me
7 physically what Mr. Kay did that you saw.
8 A He dialed up the frequency of one of the
9 data channels of a Motorola system. He had four data
10 channels out of 20 or 18, or control channels, and there
11 were 16 channels where the actual talk takes place.
12 Q Let me interrupt you here. He dialed up the
13 frequency is your testimony, correct?
14 A Some frequency. I wouldn't know offhand
15 what frequency it was at the time. I would have seen the
16 readout. I don't know today what it was.
17 Q Did you see him do the dialing?
18 A Uh-huh.
19 Q Then what happened?
20 A Well, you can send a signal and when there
21 is a pause in between --
22 Q I'm not asking for your interpretation as to
23 what happened.
24 A He sent a signal. I'm trying to explain to
25 you what a signal does.

175

1 Q So it locked on. Then what did you see?
2 A Well, that was it. You now have shut down a
3 corner of the ability to switch channels. If you keep
4 hanging that, you will shut the whole thing down.
5 Q Let me just describe what you saw, and you
6 can tell me if I am correct. You saw Mr. Kay dial up a
7 frequency and you saw that repeater lock on, correct?
8 A I saw him lock onto the repeater.
9 Q Other than that, did you see anything?
10 A That's the definition of interference.
11 That's what I saw.
12 Q I'm just trying to get what you saw.
13 A That's what I saw. I can't see the
14 electrons flying through air, but I know that they do,
15 and you can readout the net result by seeing that the
16 signal disappears and you now have a clear channel
17 through the other system.
18 Q Other than what Mr. Kay told you about what
19 he was doing, do you have any knowledge as to the effect
20 as to what he had done?
21 A You are now taking one out of the four
22 channels out of service at the other end.
23 Q How do you know that from personal
24 knowledge?
25 A I have enough curiosity to have looked it up

177

37-9

1 and verified that's what it does. Indeed it does shut
2 down the frequency.
3 Q You are not answering my question, Mr.
4 Jensen. My question is regarding this specific incident.
5 how do you personally know the effect of Mr. Kay's
6 actions with respect to this specific incident?
7 A The equipment shows that the other side was
8 no longer using that channel.
9 Q What equipment was the other side using?
10 A I have no idea what they were using on the
11 other side.
12 Q What channel was it?
13 A It was one of the data channels. I wouldn't
14 know the frequency.
15 Q So you don't know the frequency either. How
16 did you look this up?
17 A He showed me a lot of the stuff and says,
18 "Here, this is how it works." At some point he showed me
19 the book where -- I mean, he has got the service records
20 for it, and the equipment showed me how the logic works
21 here. I've been through Kay University showing me how
22 the --
23 Q I'm going to interrupt you. I need specific
24 answers. In what did you look up the effect of Mr. Kay's
25 action? In what book or record?

178

1 A A Motorola trunking system.
2 Q Which one?
3 A I wouldn't know which one it was. I'm sure
4 he told me at the time, but I wouldn't know which one it
5 was.
6 Q Do you know whether Mr. Kay had a license on
7 that channel that we are talking about this one incident?
8 A From the representation I had, I would not
9 know that he did. I would be surprised if he did.
10 Q You don't know is your answer?
11 A I don't know that he did, no, certainly not.
12 Q Do you know if he didn't?
13 A His representation was that he didn't.
14 Q I'm asking you for your personal knowledge,
15 Mr. Jensen. Do you know?
16 A Within the definition of what you said this
17 morning, if he told me so, I'm taking him at his word
18 that it wasn't consistent.
19 Q I'm asking whether you know, Mr. Jensen.
20 It's that simple. I just need an answer. I don't need
21 your interpretation. I hate to be rude.
22 MR. SCHAELE: Objection. Joel, you are arguing.
23 He is answering your question. I think you are being
24 unnecessarily argumentative here.
25 MR. SEIDEL: Noted.

180

1 A It was some reference book that showed the
2 material.
3 Q Can you tell me the reference book you
4 looked in?
5 A I wouldn't know what one it is. There are
6 tons of them back there. I believed it to be true at the
7 time. I don't know if the net result was what it was.
8 I'm sure he didn't shut down the whole system because the
9 channels stayed up, but you asked me if I knew what he
10 did and that's what he did.
11 Q Let me understand your last statement. You
12 believed at the time that he had interfered with another
13 station, correct?
14 A Yes.
15 Q But you don't know whether or not it
16 actually occurred?
17 A Nearest I can tell from reading the
18 equipment that would have been the case.
19 Q Reading which equipment?
20 A The service monitor in Lucky's.
21 Q Did you read it?
22 A Yeah, that's what he was pointing to and
23 saying this is what happened. From my understanding of
24 how the trunking system works, that is what happened.
25 Q What kind of trunking system was this?

179

1 THE WITNESS: You said this morning --
2 BY MR. SEIDEL:
3 Q I'm going to do the definition again, and I
4 want you to tell me if you do not understand it. When I
5 say personal knowledge it's something you know not from
6 what somebody told you. If somebody told you something,
7 you have personal knowledge that they told it to you, but
8 you don't have personal knowledge as to the facts of what
9 they told you.
10 A That's what I said.
11 Q Do you personally know whether or not
12 Mr. Kay had a license for the channel regarding the
13 incident we are talking about?
14 A He told me he didn't.
15 Q Other than what he told you, do you have any
16 knowledge?
17 A No. I'm taking his statement at face value.
18 I assumed he was telling the truth.
19 Q Do you know which channel that this occurred
20 on?
21 A I wouldn't know today.
22 Q Do you know how long this incident took
23 place?
24 A It was a very, very short period.
25 Q About how long? Can you estimate for me,

181

37-10

1 sir?
2 A Certainly less than minutes.
3 Q Less than one minute or less than five
4 minutes?
5 A Certainly less than five. It could have
6 been one, but it may not have been quite that long.
7 Q Other than this one incident that we have
8 been discussing which lasted less than five minutes, are
9 you aware of any other instances of Mr. Kay interfering
10 with radio communications?
11 A Where he personally did it in front of me?
12 Q Yes.
13 A No.
14 Q Do you know of instances in which Mr. Kay
15 interfered with radio communications not personally?
16 A What do you mean by "not personally"?
17 Q Just on a side, and I will get back to the
18 last question, Mr. Jensen, how much power does a service
19 monitor transmit?
20 A It doesn't transmit a whole lot, but you
21 don't need a whole lot to get into a repeater system.
22 Q How much is not a whole lot?
23 A I'm not sure offhand, but we are talking --
24 we are talking watts. We are not talking milliwatts.
25 It's not like you can't hear the signal from across town.

182

1 interference?
2 MR. SEIDEL: Any sort.
3 THE WITNESS: It happens every day.
4 BY MR. SEIDEL:
5 Q When you say interference which happens
6 every day, you just mean the normal interference from a
7 number of people on a number of frequencies?
8 A Interference happens every day in the radio
9 systems. If they're used at all, you have interference
10 every day.
11 Q Under normal operations?
12 A Absolutely.
13 Q This interference is incidental?
14 A Not always. Sometimes it can be critical to
15 somebody's operation.
16 Q Rephrase the question. This interference is
17 accidental?
18 A It may be accidental. It may be done on
19 purpose. You can't tell from merely a statement that
20 interference was present one day that it was on purpose
21 or not. You would have to look into it more than that.
22 Q During your employment with Southland, did
23 you have any knowledge as to Mr. Kay's construction
24 practices?
25 MR. SCHAUBLE: I need a clarification. Do you

184

1 It's strong enough to carry across town.
2 Q Do you know how many watts?
3 A No, I wouldn't.
4 Q Do you know which antenna Mr. Kay was using
5 for this incident we have been talking about?
6 A I am not sure. We had more than one antenna
7 on the roof including one that we could rotate by a
8 little gizmo.
9 Q You don't know which one?
10 A I'm not sure which one it would have been.
11 Q What is antenna gain?
12 A We are going to have an education it
13 appears. The gain of an antenna is how much increase in
14 the power of your output signal it takes and it generates
15 through to a sign and whatnot. It's like an amplifier
16 device.
17 Q Now, this is the only instance in which you
18 personally observed Mr. Kay allegedly interfering with
19 another operator's channel; correct?
20 A This incident that I recall him personally
21 doing something before my eyes.
22 Q Are there any other instances of
23 interference which you can recall today?
24 MR. SCHAUBLE: Just for clarification, Joel, are
25 you talking purposeful interference again, or any sort of

183

1 mean construction of repeaters or --
2 MR. SEIDEL: Construction of stations. Thank you.
3 John.
4 THE WITNESS: Well, in some degree probably
5 depending on the station. In conversation we would
6 certainly talk about it. There were impacts on the
7 business from construction stations.
8 BY MR. SEIDEL:
9 Q Could you be more specific?
10 A If a station goes on the air you can sell
11 radios to it.
12 Q I'm talking about Mr. Kay's construction
13 practices such as how long it would take for him to load
14 a channel after an application for a license was granted?
15 A They weren't always the same time period.
16 Q I'm just asking about if you have knowledge
17 of his practices. I'm not asking about a specific
18 instance.
19 A I supposed to some degree.
20 Q Can you describe for me the practice that
21 Mr. Kay would employ in his normal course of operations
22 once an application was granted?
23 A Well, if you have customer demand on a
24 particular frequency you get a license for it. You hurry
25 to mount, to put a repeater up so you can put customers

185

37-11

1 on and collect your monthly revenue. It's a
2 hurry-up-and-go situation.
3 Q Did Mr. Kay normally have more customers
4 than he had frequencies for?
5 A Not necessarily. He might have had them
6 sometimes on one frequency where he didn't have loading
7 for them to go on.
8 Q Can you think of any specific instances?
9 A Sure. You might have somebody who you could
10 put on a trunking system, but they don't want to buy
11 trunking radios, so you've got to put them on a different
12 frequency, and you may not have that frequency available.
13 Q Can you think of any specific instances in
14 which Mr. Kay had more users for a specific frequency
15 than in which he actually had room on that frequency?
16 A I wouldn't be able to offhand today tell you
17 that frequency. I'm sure that happened occasionally.
18 Q Are there any specific instances in which
19 you can recall in which Mr. Kay had a frequency and
20 nobody to put on it?
21 A Sure. If you are successful in filling
22 applications you have a license that's clean and you have
23 no customers.
24 Q Can you think of a specific instance where
25 this occurred?

186

1 sometimes. Not a bad thing at all.
2 Q Did you ever visit any of Mr. Kay's relay
3 sites?
4 A I don't believe so.
5 Q Did you ever assist Mr. Kay in planning
6 repeater construction?
7 A Define "planning."
8 Q Did you ever assist Mr. Kay in determining
9 how many repeaters he needed to service his users?
10 A I don't think I counted how many repeaters.
11 MR. SEIDEL: Would you read that answer back,
12 please.
13 (Record read.)
14 BY MR. SEIDEL:
15 Q That wasn't an answer to my question, sir.
16 Did you ever assist Mr. Kay in deciding how many
17 repeaters he needed to have in operation?
18 A Actually, I would like you to repeat the
19 question you asked me because I think what I answered was
20 the answer to your question.
21 Q I'm not going to argue over this. The
22 record will reflect whether you did or not. My question
23 is did you ever assist Mr. Kay in deciding how many
24 repeaters he needed in operation?
25 A I would not think so.

188

1 A Certainly my license situation, that would
2 have been a license that didn't have anybody to go on it
3 at the time.
4 Q Other than your license, any other specific
5 instances?
6 A It would be true for most any license unless
7 you had a backlog of customers. The day you get the
8 license you don't have anybody on it and you go beat the
9 bushes for customers.
10 Q Can you think of any specific instance in
11 which Mr. Kay had an existing license, not a new one, but
12 an existing one that had been in existence for perhaps
13 more than six months for which he did not have customers?
14 A I suppose that could happen also. There is
15 not necessarily something wrong with that. You have a
16 construction period to put customers on.
17 Q Can you think of any instance in which that
18 occurred?
19 A I'm saying that I'm sure that that probably
20 did happen at some point. I can't identify the
21 frequency.
22 Q So you don't have any specific instance for
23 me?
24 A No, but I'm sure it's probably true. It's
25 the normal course of business that would be the case

187

1 Q Do you have any knowledge regarding Mr. Kay
2 allegedly trunking conventional stations?
3 A It seems to ring a bell of some sort.
4 Q Other than ringing a bell, do you have any
5 knowledge?
6 A Well, I think that was probably something
7 creative that I was attempting. I don't recall the
8 outcome of it at all. It does ring a bell.
9 Q It sounds to me that anything other than
10 that you don't have anything to tell me?
11 A I don't recall specifically, but it sure
12 does sound like something that was attempted at one
13 point. I don't remember the details, but it may come to
14 me. I made a good point of not thinking about this for
15 years.
16 Q If it comes to you today, will you let me
17 know?
18 A I'll be glad to.
19 Q During your employment with Mr. Kay, did you
20 take any documents or copies of documents from his
21 business?
22 A Other than in the normal course of business,
23 I don't think so.
24 Q So you don't have documents today that
25 you --

189

37-12

1 A Certainly not.
2 Q Let me finish my question for the record.
3 You do not have any documents today which you acquired
4 during your employment with Mr. Kay?
5 A Other than pay stubs perhaps, no, certainly
6 not.
7 Q Did you ever ask other workers or employees
8 of Mr. Kay to obtain documents or copies of documents
9 from Mr. Kay's company either before or after you were
10 terminated from your employment with Mr. Kay?
11 A Other than for business purposes, I don't
12 think there would be any reason to. I don't think so.
13 Q Your answer is you don't believe so?
14 A No.
15 Q Did you ever provide the FCC with any
16 documents regarding Mr. Kay's business?
17 A Other than perhaps copies of those licenses.
18 I don't think so. I don't think I had anything to
19 provide.
20 Q Did anyone ever ask you for documents from
21 Mr. Kay's business?
22 A I don't think so. It's possible somebody
23 asked, but I don't recall anybody asking.
24 Q Other than the FCC licenses which you
25 obtained while you worked for Mr. Kay, have you ever held

190

1 I don't think was, but the content may be the same, but I
2 don't think it's the same document.
3 Q I'm only concerned with the content.
4 A It may be.
5 Q If you look at six lines from the bottom of
6 the first page it states, "While in his employ and under
7 duress from Kay, I became a signatory to Consolidated
8 Financial Holdings." What did you mean by that
9 statement?
10 A I don't know. I can't interpret it today.
11 It's going to have to stand on its own.
12 Q Consolidated Financial Holdings was a dba
13 prior to you meeting Mr. Kay; correct?
14 A Yes. My assumption would be that I in some
15 fashion made use of the name. Just signing my name to it
16 would probably be what I meant, but this is years ago.
17 Q And any duress which you felt would be the
18 duress we spoke about during the last deposition
19 essentially from Mr. Kay's physical presence?
20 A What we discussed about last time, yes.
21 Q Is there anything other than what we
22 discussed last time regarding duress?
23 A I think that would be the key points to it.
24 Q So the prior deposition is complete in that
25 respect?

192

1 any FCC licenses?
2 A No.
3 Q Have you ever tape recorded conversations
4 with Mr. Kay or any of his employees?
5 A I don't think so.
6 Q You don't have any tapes today of
7 conversations you had with Mr. Kay or his employees?
8 A No.
9 Q And you have never turned over any tapes to
10 the FCC?
11 A No. I'm just thinking of current news
12 stories that this is a new fangled phenomenon, I think.
13 Q Did anyone ever ask you to tape
14 conversations with Mr. Kay or his employees?
15 A No.
16 Q Did you ever ask anyone to tape
17 conversations?
18 A Absolutely not.
19 MR. SEIDEL: I'm handing Mr. Jensen a copy of the
20 statement which we went over in the last deposition.
21 Q Is that the same statement, Mr. Jensen?
22 A I don't know.
23 Q Would you please look at it for a moment.
24 A I'm looking at it. I don't know. It
25 doesn't look like it. This is fax paper. The other one

191

1 A I would think that it's fairly accurate on
2 the topic.
3 Q The very last sentence on this page states,
4 "At one time or another various individuals employed by
5 Kay have held or now hold FCC licenses for which Mr. Kay
6 is the real party and interest." Other than you and
7 Mr. Hessian, can you give me any specific names?
8 A We went over a number of names the last
9 time. Lee Willard, John Post, as examples, Tony, the
10 service guy, his last name I still don't remember.
11 Q Other than those individuals, can you think
12 of any others?
13 A There were probably more.
14 Q I'm asking if you can think of any other
15 names.
16 A Steve Terelak.
17 MR. SCHAUBLE: Can you just repeat that name?
18 THE WITNESS: Steve Terelak, T-e-r-e-l-a-k.
19 BY MR. SEIDEL:
20 Q Other than you, Mr. Hessian, Mr. Post, Tony
21 and Steve Terelak --
22 A Lee Willard.
23 Q -- Lee Willard -- thank you -- are there any
24 other names which come to mind?
25 A There was another maintenance or technician

193

37-13

1 service guy. I don't recall his name.
2 Q So there was another --
3 A But some other employees conceivably. If
4 you gave me a roster, I could probably say I think this
5 or that. I suspect there were more than the people that
6 I named, but I don't remember their names.
7 Q Now, if we turn the page --
8 Off the record.
9 (Discussion held off the record.)
10 MR. SEIDEL: Back on the record.
11 Q Now, if you go down to four lines from the
12 top.
13 A Page 2?
14 Q Yes. It states, "Kay requests and orders
15 his employees to have FCC licensees sign these forms in
16 blank regardless of whether the licensee understands the
17 implications." Can you name for me today any employees
18 Mr. Kay ordered to obtain forms signed in blank?
19 A I think the salespeople we talked about
20 Willard, Terelak and Post would probably fall in that
21 category.
22 Q So your testimony is that Mr. Kay ordered
23 those three individuals?
24 A I would think those three would probably all
25 fall in that category.

194

1 signature, don't come back?"
2 A I don't know that I personally heard that in
3 the case of the three employees that I talked about, but
4 I know that the order itself was certainly there.
5 Q Now, you state, "Regardless of whether the
6 licensee understands the implications." Can you think of
7 any licensees who signed documents not understanding what
8 they meant?
9 A I think businesses sign documents all the
10 time that they aren't familiar with.
11 Q I want a specific name if you can do that
12 for me today.
13 A I can't recall someone. If you gave me a
14 list of all the customers, maybe I can identify one.
15 Q But sitting here today without a list, you
16 can't give me a specific name?
17 A No.
18 Q I'll go down to the next sentence. "On
19 several occasions Kay requested that an employee secure a
20 licensee's signature on blank FCC forms; then, when the
21 signature was not forthcoming Kay ordered and repeatedly
22 pressured the employee to get the licensee's signature on
23 blank FCC forms." How many times did you see that
24 happen?
25 A I wouldn't know an exact count, but

196

1 Q But there may be more?
2 A There may be more. If one of them didn't,
3 it would probably be accidental that they haven't been
4 asked very pointedly.
5 Q When you say "order," what do you mean by
6 that statement?
7 A Handing them something and saying, "Take
8 this out and get it signed off. I need it back today."
9 A normal definition of an order of business, "Go do this
10 now."
11 Q Were any threats ever made?
12 A I'm not saying there may not have been some
13 pressure on them in case of a reluctant employee or
14 customer, but that's -- my implication in what I said was
15 not necessarily that it was forced. The practice was to
16 go get it done now.
17 Q Let me see if I understand your statement
18 and how you interpret the line I have quoted for the
19 record. Mr. Kay would direct, forcefully perhaps, but he
20 would direct his employees to get signatures?
21 A Sure.
22 Q Anything other than that?
23 A What do you mean "other than that"?
24 Q Other than asking his employees, pointedly
25 granted, any contingencies such as "If you don't get a

195

1 certainly more than a couple, and probably less than 100.
2 Q Enough to state several?
3 A Absolutely.
4 Q Which employees did this occur with?
5 A Generally speaking it would apply to the
6 salespeople, but once in a while it might also be Tony
7 the service guy who might have occasion to go out and see
8 a customer, but generally speaking it was the sales crew
9 really on any given day.
10 Q Can you give me a name other than Tony the
11 service guy?
12 A The salespeople. We talked about Willard,
13 Terelak and Post would certainly be among the group.
14 Q Go to the next sentence. "In my presence
15 Kay let it be known around the office that if a certain
16 Southland employee did not obtain a licensee's signature
17 on a blank FCC form, that employee would be considered
18 insubordinate and could be terminated." Which employee
19 are we speaking of here?
20 A Well, I think what the statement says and
21 what I meant to say was if the company owner stands in an
22 office and has a discussion with, in this case, me and
23 says, you know, if so-and-so's practice doesn't happen
24 when I ask somebody to do it, aren't they insubordinate?
25 Couldn't we terminate them? The salesperson is sitting

197

37-14

1 in the other corner of the room, and even the ones in the
2 room next door might have heard the voice come out and
3 the effect is certainly intended to be that way.
4 Q You mentioned here --- if a certain
5 Southland employee --- do you know if you meant a
6 specific employee or do you know the name of that
7 employee today?
8 A Where does it say "a certain employee"?
9 Q Fourth line --
10 A "If a certain Southland employee."
11 Q Right.
12 A What I mean is just what I said that if --
13 whichever salesperson that particular day might have been
14 in the corner of the room, the discussion was essentially
15 made so that the point would be made without specifically
16 arguing with someone.
17 Q By the way, for the record, I want
18 Mr. Jensen to know this. My tone of voice during this
19 deposition has been louder than probably in any
20 deposition I've ever done, and that is specifically
21 because we're on a phone line to the FCC so I'm doing it
22 as a courtesy, not to be rude to you, Mr. Jensen.
23 A No offense taken.
24 MR. SCHAUBLE: Thank you, Joel.
25 ///

198

1 there late and worked on licensing. That's his core of
2 business.
3 Q And Mr. Kay was a hard worker?
4 A Absolutely. Nobody is going to discredit
5 his efforts. He is probably as hard working in this area
6 as anyone in the country.
7 Q Did Mr. Kay provide good service to his
8 customers?
9 A Generally speaking so.
10 Q In other words, were customers essentially
11 pleased with the service they got?
12 A I would think most are.
13 Q So other than any disagreements you may have
14 had with Mr. Kay's licensing practices, would you say
15 that he ran his business pretty well?
16 A I think they had a good business when I was
17 there. I can't vouch for later.
18 Q While you were there it was a good business?
19 A We prided ourselves to be as good if not
20 better than the next guy.
21 Q Now, going down to the next paragraph you
22 state, "Kay frequently files with the Commission an FCC
23 form which had been signed in blank months or years
24 earlier by an unsuspecting licensee without consulting
25 the licensee." Sitting here today, Mr. Jensen, are you

200

1 BY MR. SEIDEL:
2 Q Do you know if any employee was ever
3 terminated due to not obtaining signatures on a blank FCC
4 form?
5 A No. I'm not saying they weren't. I'm
6 saying I don't know.
7 Q Let's go to the next paragraph.
8 "Frequently ---" I'm reading from the second sentence on
9 the second paragraph on page 2 --- when employees arrived
10 at work in the morning Kay would present them with FCC
11 forms for either the employee or a customer to sign.
12 Can you think of a specific employee in which this
13 happened?
14 A I'm sure this happened to probably every
15 employee. This is not necessarily at all a bad business
16 practice. If you had radio sales and whatnot, and
17 license forms needed to be completed to support that,
18 that would fall within this context. Sometimes there
19 were forms per the previous statement that needed to be
20 signed not necessarily because of an imminent radio sale.
21 Q Now, you state also, "Kay typically worked
22 on licensing matters into the evening and night hours."
23 I assume you didn't mean that actually as a negative
24 trait?
25 A No. It's a statement of fact that he was

199

1 able to give me a specific instance of this occurring?
2 A I wish that I would have memorized them, but
3 no, I can't, but at the time I probably could have.
4 Q This statement was signed by you in October
5 of 1992; correct?
6 A So it would appear.
7 Q Go to the next paragraph. "Once Kay has
8 gotten exclusive use of a channel or frequency he often
9 writes threatening letters to existing users who thought
10 they held FCC authorization to operate on the channel."
11 Do you have copies of any of those letters?
12 A No.
13 Q Can you think of a specific customer to whom
14 those letters were sent?
15 A Not offhand.
16 Q Can you think of a specific business or
17 entity to whom those letters were sent?
18 A Not offhand, no.
19 Q The next sentence, "Kay has ordered a user
20 to cease transmitting under threat of reporting its
21 unauthorized operation to the FCC." Can you think of a
22 specific person he has ordered to cease transmitting?
23 A No.
24 Q "Kay then offered the user a
25 subscription ---" and I'm reading from the statement

201

37-15